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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1992

Addendum

FRANCE

[8 April 1993]

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I. GENERAL MEASURES OF IMPLEMENTATION

A. The measures taken to harmonize national law and policy with the provisions of the Convention

1. Transcending the recognition of the right to protection, the Convention stresses the promotion of the rights of the child; its implementation thus gives fresh life to a trend which is well established in France in legislation as well as in practice. This development is part of an ongoing quest for a balance between an awareness of the aspirations of minors, their protection and parental responsibility in respect of education.

2. Before describing the measures taken, it would be appropriate to refer to the context in which France ratified this instrument. Various factors combined to give it a very wide audience.

I. The French context

3. The Convention entered into force at a time when:

There was a clear political will and civil society was mobilized to ensure the protection of the child and the defence of his interests with maximum effectiveness as well as to strengthen international cooperation;

There were new social issues which related to the legal status of the child: the repercussions of changes in family behaviour; the consequences of the progress in the life sciences; and the difficulties experienced by young people in achieving social and vocational integration;

There were substantial institutional reforms, bringing about a redistribution of powers in matters of child protection at the internal and European levels.

1.1. A strong political will and a mobilized "civil society"

A strong political will

4. In addition to their support as early as 1979 for the Polish initiative and their participation in drafting the text, the authorities showed their resolve on various occasions.

5. On 10 June 1989, on the occasion of the Congress of the National Union of Family Associations, the President of the French Republic stated:

"I want France to be one of its first signatory countries and the work of adapting our domestic law to be completed successfully ... It is often difficult to adapt a domestic law which represents all our traditions and our ways of looking at things to a new international law ... Although if it is difficult, it will nevertheless have to be done ... The legal status of the child has to be rethought ... The child must be respected for himself ... Anyone who cares about freedom, who desires it and who would like to see it prevails to a greater extent throughout the world is

well aware that it begins with the firm and clear idea that the child is an individual and that he must not be corrupted and subjected to what individuals or communities want to force upon him ... ".

6. Similarly, the Prime Minister, at the World Summit for Children, held on 29 and 30 September 1990, reminded it of our country's responsibilities vis-à-vis other States in the struggle for and defence of the rights of all children:

"My country signed and ratified it without any hesitation whatever and our presence attests to our common determination to implement it fully ... But the meaning of the Summit and the solemn commitment of France, is that it is necessary to go further and to strengthen further international cooperation on behalf of children. Children, all children, our own as well as those of others, have rights over us all that we must constantly affirm and defend ...".

France signed the Convention on 26 January 1990. The Convention was ratified on 7 August 1990 and entered into force on 6 September 1990.

7. At the international level, in addition to the aid and development programmes executed by the European Community and in which France participates, if only through its contribution to the Community budget, in recent years France has greatly extended its policy of aid and cooperation for the poorest countries.

8. According to the latest report prepared by the Development Assistance Committee of the Organization for Economic Cooperation and Development (OECD), France achieved one of the fastest rates of growth in official development assistance to the developing countries. In 1989, that assistance accounted for Francs 36.8 billion and reached Francs 41.7 billion in 1991; this puts France, in absolute value, third among the OECD countries, after the United States and Japan. Taken in conjunction with the gross domestic product, this amount is equivalent to a rate of 0.62 per cent, the highest for the seven most industrialized countries.

9. In accordance with the wish stated by the President of the Republic, the reduction in the debt of the third world countries, particularly by converting loans into gifts, marks a decisive stage in our cooperation policy.

10. In view of the scope of the problems and indeed the dramatic turn of events and needs in some countries, the Government decided that the health sectors, especially those providing care for the mother and child, should become a high priority for French cooperation. Thus, in 1992, France's contribution to the United Nations Childrens Fund (UNICEF) increased by over 45 per cent from Francs 40 million to 58 million.

11. Several thousand technical assistance specialists or workers (coopérants) are providing technical assistance, mainly to the French-speaking African countries; for example, following the World Summit for Children, the French Ministry of Cooperation adopted a Francs 20 million plan of action in the field of maternal and child health, nutrition, family planning, safe

child-bearing and health education. Extending over a period of 36 months, this programme makes it possible to support a number of these priorities by carrying out operational research, training and symposia, producing written or audio-visual material as well as follow-up and evaluation studies.

12. In health matters, French assistance focuses on the development of maternal health as well as the efforts to combat the major communicable diseases such as AIDS and malaria.

13. Aid to children is deployed in four directions: rural development, food strategies and nutrition; the improvement of health structures and epidemiological networks; the improvement of the child's environment: water, sanitation and the habitat; women, children and development.

14. Under the heading of humanitarian activities, France, in cooperation with a number of non-governmental organizations, also ensures that it is able to respond rapidly to the crises of all kinds which endanger the lives of children throughout the world. It did so in recent months and continues to do so in the case of Romanian, Kurdish, Somali, Bengali children and children of the former Yugoslavia. It also intervened when natural disasters occurred in Turkey, Egypt, the Philippines, Nicaragua, etc.

15. In the autumn of 1992, primary and secondary school pupils took part in the emergency aid operation for the children of Somalia "Rice for Somalia" organized by the Ministry of Education and Culture, in cooperation with the Ministry of Health and Humanitarian Action.

16. Each year, 20 October is traditionally "Third World Day at School". On that day, pupils are alerted to the issues raised by the development of the third world countries.

17. Generally speaking, the authorities ensure, in the interests of the children themselves, that initiatives on their behalf taken in the form of humanitarian action are well prepared and in line with the priorities identified by the international organizations active in the field. Field activities must continue to have priority.

Mobilized "civil society"

18. From 1988 onwards, non-governmental associations and organizations joined together in order to promote the Convention and make it known. Widely publicized by the media, this campaign has had a resounding impact (see below, paras. 105 to 114).

1.2. Shifts in family models

19. The forecasts made by demographers in the 1960s who looked forward to the advent of a single family unit - the married couple with two children - have been disproved by events. Since 1965, in France as in most industrialized countries, there have been rapid changes influenced by several factors: the liberalization of standards of behaviour, the new cultural, economic and social status of women and the widespread use of contraceptives.

20. In 1991, France had 57.2 million inhabitants, of whom 27.1 per cent were under 20, 53.5 per cent were between 20 and 59 and 19.4 per cent were 60 years old or more. The statistics indicate that 53.3 per cent are married persons, 31.7 per cent are single persons, 8.5 per cent are widowers or widows and 4.5 per cent are divorced. Couples marry less and marry later. The number of marriages appears to have stabilized since 1988, at approximately 280,000 per year. The average age at which the first marriage takes place is 29 years for men and 27 for women. The divorce rate has risen notably, particularly in urban areas but has remained stable since 1986 at around 31.5 per cent. The proportion of unmarried persons cohabiting stands at 9.5 per cent for men and 8.5 per cent for women, between 30 and 34 years of age; these percentages are 6.6 per cent and 5.3 per cent respectively between 35 and 39 years of age and 3.4 per cent and 4 per cent between 40 and 44 years of age.

21. The birth rate has changed little over the last 10 years. The cyclical fertility indicator has fluctuated by one or two-tenths around 1.8 children per woman (1.76 in 1981). The average age of the primipara is rising steadily and was 28.3 years in 1990. The proportion of births outside wedlock exceeds 30 per cent. Single-parent families account for 5.9 per cent of all households, but for 9.3 per cent of families with children under 18 years of age. In 1989, 90.4 per cent of children under 15 years of age lived in two-parent families; this percentage was 83.4 per cent for the 15 to 19 year-olds, 44.2 per cent for the 20 to 24 year olds (in this age group 7.5 per cent of children still live in a single parent home).

22. Generally speaking, children are leaving the parental home at an increasingly late age: at 24 years of age, more than 60 per cent of young men and nearly 50 per cent of young women were still living with their parents. These trends seem likely to persist in the years ahead.

23. In the course of their lives a certain number of children will experience several family situations and will enter various networks of psychological attachment (parents, parents-in-law, grandparents, half-brothers and sisters). It is becoming difficult to speak of "the" family. Since the family can no longer be defined solely in terms of marriage or even cohabitation, it is the child who makes up the family. (See annex No. 4: Social data INSEE 1990; No. 1: Population and social groups and No. 7: Family.)

1.3. The repercussions of advances in the life sciences

24. Advances in the life sciences are opening up new possibilities of artificial procreation the development of which may gradually lead people to claim what might be termed the "right to a child".

25. If not properly exercised, this right could lead to abuses which must be categorically condemned out of respect for the dignity of the human being. Medically assisted procreation cannot be regarded as an alternative to physical procreation but should be used only as remedy when a couple is sterile. Recourse to surrogate mothers and the use of prenatal diagnosis for the purposes of eugenics should also be condemned. A child who has been procreated by the use of these new technologies, must be, in his own

interests, "a child like any other" with a status offering the same guarantees of stability. Scientific progress should not rebound against the child by weakening his filial bond.

26. For example, it is unacceptable that the partner of a woman, after agreeing to her insemination by a third party, should then refuse to assume his parental responsibilities vis-à-vis the child and contest the filial bond thus created on the ground that there had been recourse to artificial procreation. Unrestricted recourse to genetic identification tests at the risk of destroying family harmony is equally unacceptable. The French Government wished to establish these ethical principles.

27. Three draft laws:

The first relating to the human body;

The second relating to the gift and utilization of parts and products of the human body, medically assisted procreation and prenatal diagnosis as well as to the national advisory commission on ethics for the life sciences and health;

The third relating to the processing of collective data for the purposes of research into the protection and improvement of health;

were adopted, in first reading, by the National Assembly, on 26 November 1992. The lawmakers thus condemned any use of eugenics as well as surrogate maternity contracts. They strictly defined medically assisted procreation techniques as well as prenatal diagnosis and the use of genetic tests. Finally, they guaranteed the stability of the status of children born as a result of artificial procreation (see annex No. 5).

1.4. The social and vocational integration difficulties experienced by young people

28. Since the end of the Second World War, the phenomenon of exclusion had decreased notably and 30 years of prosperity in the industrialized countries had led to the belief that it would gradually disappear. The persons who were excluded were mainly the elderly or disabled whose resources were insufficient to guarantee them a minimum standard of life. An energetic policy of financial support and promotion of their social role helped to give them a more decent life.

29. Today, the phenomena of exclusion also affect young people. For many of them, their entry into active life, at the end of their schooling, has become a time of uncertainty and destabilization.

30. For structural reasons related to inadequate linkage between training, qualifications and labour market requirements, young people are the first to be affected by the slow-down in economic growth and the increase in unemployment.

31. Moreover, some encounter specific problems, particularly those who live in the suburbs of large cities, and, among this category, those who belong to

the second generation of immigrants. In addition to frequently run-down physical environments, there are disquieting social abnormalities such as a higher rate of unemployment than in the city centre, an excessive population density and inadequate public transport and amenities.

32. According to a recent estimate, more than 100,000 young persons between 16 and 25 years of age are in a critical situation characterized by disrupted schooling, broken homes, drug addiction, unemployment and the discontent felt by some children of immigrants or those from overseas departments and territories. Finally, the spread of the AIDS epidemic is casting a shadow over their prospects. Greater regard for their needs is one of the major public policy issues.

1.5. Changes in the child welfare machinery

33. A new structure came into being:

Internally, with the redistribution of powers between the State and the local authorities brought about by an administrative reform unprecedented in two centuries;

Externally, with the building of Europe.

A. The internal machinery

34. France's machinery has been modified by decentralization legislation which transferred to the local authorities a sizeable proportion of the powers hitherto exercised by the State in this domain.

35. Nevertheless, the State continues to be responsible for a certain number of fundamental matters such as the negotiation of international instruments, the elaboration of legislation and the improvement of the services of all public authorities directly responsible to it, such as education, police, hospitals, the protection of children and young people on group holidays and justice.

36. At the financial level, it continues to play an important role through various forms of assistance (see below, paras. 320 to 344). For instance, family allowances account for Francs 130 billion.

37. The responsibility for social and medical welfare is now vested mainly in the Regional Council (an assembly elected by universal suffrage in each department). Child welfare is not assured solely by government services but also by publicly funded private associations.

38. However, the decentralization of power may generate a disparity in local policy and the State must ensure that the principle of equality of citizens before the law and the public services is respected.

39. The French child welfare system is therefore complex and requires a good level of coordination between its different components. (See annex No. 1 - Report of the Council of State.)

B. The European context

40. The free movement of persons across the open frontiers of the 12 countries of the European Community will create ties of all kinds and in particular emotional ties. The gradual disappearance of frontiers has already led to an increase in the number of couples of different nationalities (15,000 mixed marriages registered in 1955 and 30,500 in 1990) for whom the settlement of disputes arising from a possible dissension which is already difficult to achieve at the domestic level, is made even more difficult.

41. Without moving in the direction of an alignment of French family legislation which is proving particularly difficult because of the cultural traditions of each country, it is, however, essential to devise machinery for regulating conflicts. The issue has been taken up by the Council of the 12 Ministers responsible for family questions and by the European Parliament.

42. Beyond the Europe of the Twelve, for 20 or so years the Council of Europe has contributed to enhancing the protection and status of children by means of numerous legal instruments.

43. A further step forward was taken with the ongoing elaboration of a draft convention on the exercise of children's rights.

44. France will host in the course of 1993 the twenty-third Conference of European Ministers responsible for family matters, the theme of which will be "Family policy, children's rights and parental responsibility".

II. The ratification of the Convention

2.1. The travaux préparatoires

45. Prior to the adoption of the Convention, a considerable amount of work was carried out by the authorities to assess the extent of the commitments contained in the instrument:

A fact-finding report on the rights of the child was published by the Legal Commission of the National Assembly in November 1989;

The Population and Family Board, an expert body responsible to the President of the Republic, issued its opinion on the introduction of the Convention into French law in March 1990;

In May 1990 at the request of the Prime Minister the Council of State conducted an important study on "The status and protection of the child";

Finally, the ministries concerned developed their own work and made proposals (see annexes Nos. 1-5).

2.2. The process of signature and ratification

46. In conformity with commitments undertaken, the Convention was signed on 26 January 1990. By a law of 2 July 1990, Parliament authorized ratification which took place on 7 August 1990. The Convention entered into force in our country on 6 September 1990. France entered one reservation and two interpretive declarations.

47. The reservation concerns article 30. Having regard to article 2 of the Constitution of the French Republic ("France is a Republic, indivisible, secular, democratic and social. It shall ensure the equality of all citizens before the law without distinction of origin, race or religion. It shall respect all beliefs." ...), France considers that article 13 is not applicable in so far as the Republic is concerned. Indeed, on the basis of these principles of equality and non-discrimination, the existence of minorities cannot be recognized in France in the sense of groups enjoying a special status.

48. France made a similar reservation in respect of article 27 of the International Covenant on Civil and Political Rights.

49. The first of the two interpretive declarations relates to article 6, which provides that "States Parties recognize that every child has the inherent right to life" and that "States Parties shall ensure to the maximum extent possible the survival and development of the child".

50. Although this article contains no reference to the time at which life begins, in order to dispel any ambiguity which might derive from the preamble ("the child ... needs ... protection, before as well as after birth"), France wished to state that the Convention "cannot be interpreted as constituting any obstacle to the implementation of French legislation relating to the voluntary interruption of pregnancy".

51. The second interpretive declaration of interpretation relates to article 40, paragraph 2 (b) (v) concerning the right to have any decision or measure recognizing the guilt of a child reviewed by a higher authority or judicial body.

52. France construes this provision as establishing a general principle to which limited exceptions may be made under law. Indeed, France's legal tradition has it that certain decisions handed down in criminal matters by the police courts (for minor offences) and by the assize courts (for criminal offences) may be appealed. None the less, the decisions handed down by the final court of jurisdiction may be appealed before the Court of Cassation, which shall rule on the legality of the decision taken (see annex No. 5).

III. The measures taken to harmonize national law and policy with the provisions of the Convention

53. While the Convention is not the direct source of all the advances made, it has contributed to accelerating reforms and above all to modifying their content (for all the instruments quoted, see Annexes Nos. 1 to 5).

a.1. Measures taken prior to the Convention

54. In the two or three years preceding the adoption of the Convention and its ratification by France, several measures, directly or indirectly met the requirements of the Convention.

Measures having a direct impact

55. The Act of 22 July 1987 concerning the exercise of parental authority made three essential innovations to promote the right of the child to be brought up, as far as possible, by both parents and to express his opinion on matters concerning him. It replaced the concept of the physical custody of the child by that of parental authority. In the legitimate family, each parent has parental authority even if he or she does not live with the child and, in such a circumstance, maintains the right to supervise the upkeep and upbringing of the child. The law also simplifies the joint exercise of parental authority in the natural family by allowing the parents to make a joint declaration to that effect before the judge. Lastly, in divorce proceedings, it takes into consideration the sentiments of the child who, if he is over 13 years of age should, in principle, be heard.

56. The Act of 30 December 1987 concerning placement in pre-trial detention or under judicial supervision and that of 6 July 1987 concerning pre-trial detention restrict the scope and duration of pre-trial detention measures concerning minors, consistent with article 37 (b) of the Convention (alternative educational measures are proposed to magistrates by the educational services to the courts).

57. The Act of 10 July 1989 relating to the prevention of ill-treatment of minors and to child welfare further strengthens the mechanisms for the prevention and protection of minors who are victims of ill-treatment, at the national and departmental levels.

58. An important campaign is being conducted to alert, inform and train the staff of the school community as well as all persons involved with young people, with a view to putting them on their guard against sexual aggression and maltreatment (interministerial circular of 31 March 1989).

59. The framework law of 10 July 1989 on education makes education a national priority and associates the pupil in the follow-up to its educational programme. The innovative features of this law relate to efforts to combat the development of inequalities (the detection of disabilities through early medical and social action, efforts to combat the educational exclusion of children from disadvantaged backgrounds and the integration of disabled children and adolescents into school and society).

60. The Act of 18 December 1989 concerning the promotion and protection of health, the family and the child updates and supplements the system for the protection of expectant mothers and children under six years of age, which dated back to 1945 and 1970.

61. Through a series of instruments concerning the running of medical and social facilities and services providing care for disabled children and adolescents (decrees and circulars of 1988, 1989, 1990), the State redefined its policy on that issue. These reforms are radically transforming educational practices and integration activities in line with article 23 of the Convention.

62. Since 1989, some 15 bar associations, with the support of the authorities, have been experimenting with new ways of organizing the defence of children in court, by specialized training for lawyers, and campaigns to provide legal information to minors and their families.

63. The Act of 12 July 1990, a piece of legislation which is unique in Europe, guarantees the protection of children who work as models in advertising.

Measures having an indirect impact

64. The Act of 1 December 1988 relating to the minimum social income for and the efforts to combat poverty and social and occupational exclusion recognizes the national right of every person over the age of 25 to a minimum social income. The amount of the minimum income is significantly higher for families with one or more dependant children. More than 700,000 households, including 300,000 households with one or more children have availed themselves of this mechanism since its introduction.

65. The Act of 31 May 1990 on the right to housing seeks to improve access to housing for the most disadvantaged persons. The authorities have just set up a board on housing for disadvantaged persons.

a.2. Measures adopted since the entry into force of the Convention

66. These measures fall into two main groups:

(a) Measures to improve the existing system of care

67. Considerable progress has been achieved since the end of the Second World War. There is still room for improvement, however, and new needs have to be satisfied all the time.

Improvement of facilities for the young children of working parents

68. In 10 years, the number of places has doubled. The Act of 12 July 1992 relating to persons certified to operate day-care centres in private homes seeks to improve their status and the standard of care given to the children who are placed in their custody during the day or on a full-time basis by better conditions of recruitment and pay, better initial and ongoing training. Given the extent of the needs and the preference of many families for family day-care centres, this new law is particularly important.

Better prenatal and postnatal care

69. Two decrees dated 6 August 1992 regulate family planning centres, compulsory premarital, prenatal or postnatal examinations and maternal and child welfare services. Since 1 April 1991, the number of compulsory medical examinations for pregnant women has been increased and the health record-book of the pregnancy has been made mandatory (order of 16 November 1991).

Better harmonization of family life and working life

70. The measures for the protection of pregnant women established in the Labour Code were strengthened by the Act of 27 January 1993 which forbids an employer to refuse to engage an employee or to terminate her work contract during a trial period on account of her pregnant condition. The law also simplifies the return to work and improves the career prospects of those employees who have taken parental leave or who have reduced their working hours in order to bring up a child.

71. This legislation supplements the provisions of the Acts of 3 and 18 January 1991, which facilitated the temporary interruption of work by parents with young children. Similarly, employees with families may avail themselves of flexible and individualized working hours. Part-time work has become a right for employees.

The prevention of child abuse

72. The first interministerial statement on the application of the Act of 10 July 1989, presented to Parliament in June 1992, deals with the activities of the departments and the results of the national telephone assistance service (the toll-free number called "the green number").

Discussion on international adoption initiated

73. French civil legislation, designed mainly for the adoption of children born in France, contains few specific provisions concerning inter-country adoption, although France ranks second after the United States in the adoption of foreign children. Wishing to prevent the development of any kind of traffic, the authorities are anxious to provide the same guarantees for these children as those enjoyed by adopted children born in France, in conformity with article 21 of the Convention.

74. The living conditions of the residents of disadvantaged neighbourhoods are being improved by urban policy, which was given an added dimension in 1991 with:

The creation of a ministerial post to ensure better coordination of the various activities;

The adoption of a framework law for urban areas (19 July 1991);

The increase in the number of local support and prevention programmes targeting young people in particular.

75. There is also the improvement in social welfare for the most disadvantaged 17 year-olds by the Act of 29 July 1992, which supplements the existing provisions on the minimum integration income.

76. Access by juveniles to telephone message services may be dangerous because of their violent, racist or pornographic nature and its supervision is the subject of a plan of action by the Ministry of Posts and Telecommunications. A decree of 25 February 1993 established a data transmission board to make recommendations on a code of ethics specifically to protect young persons and a committee to ensure compliance with these recommendations.

77. France also submitted information on access by juveniles to telephone message services to the seventeenth session of the Working Group on Contemporary Forms of Slavery of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. 1/

b. New measures focusing on the recognition of the child's right of expression and the strengthening of his personal legal status

78. The new measures deal mainly with the juvenile's right of expression, the taking into account of his consent to a certain number of acts affecting him, the right to have his filiation established, and the right to be brought up by both parents. Public opinion considers this to be the major contribution made by the Convention to France.

79. As a result of the momentum generated by the Convention, the last two years have seen the legal recognition of new rights or the improvement in conditions for the exercise of existing rights, which accompany a marked change in mental attitudes and behaviour.

b.1 The right of expression

In school

80. The purpose of the decree of 18 February 1991 relating to the rights and obligations of pupils in the public secondary education establishments and the four implementing circulars is to encourage young high school pupils to express themselves.

The right of publication set forth in these new laws has given high school publications additional support by allowing expression without prior censorship. Thus the Teaching and Information Media Liaison Centre (CLEMI) has already filed 20,000 copies of some 2,000 school publications.

The opportunity for high school pupils to express their concerns has been developed over the last two years through the right of representation which now exists at the different levels of the system:

1/ See E/CN.4/Sub.2/1992/34 and Corr.1.

Within the establishment there is a student council which takes an active part in the life of the establishment;

At the level of the educational district high school councils take part in deliberations and decisions adopted for improving life in high schools;

At the national level, three high school pupils are elected to sit on the Board of Education and take part in the major discussions on the educational system (Act of 21 December 1991 amending the framework act of 10 July 1989 on education and aimed at allowing high school pupils to be represented on the Board of Education);

The training of representatives has been developed generally throughout the country, with the help of summer universities and training courses;

The establishment of a post of representative of high schools within the Ministry of Education attests to the desire for young people to exercise these new rights to the full (September 1992).

In specialized facilities

81. Children, over 12 years of age, residing in social and medico-social facilities must, in future, be involved, with their parents, in the operating problems of the facility (participation in the board of administration as laid down in the decree of 31 December 1991 and the circular of 3 August 1992 concerning the boards of administration of social and medico-social institutions).

In the community

82. The freedom of expression recognized for children has also been developed in children's and young people's councils. There are such councils in neighbourhoods as well as in communes, departments and regions. The first local council for children was set up in 1979, but the phenomenon became widespread only quite recently. Their number increased from 300 in 1990 to 650 in 1992.

83. The authorities support these initiatives and maintain regular contacts with the movement. A detailed study of the operation and the achievements of the children's councils has just been completed. The inclusion of a module on children's councils in the youth leader's diploma course is being discussed.

b.2 The right to be heard and to be defended in court

84. The Act of 8 January 1993 relating to civil status, the family and the rights of the child, which also establishes the post of judge for family affairs, incorporates into positive law the principle which is set forth in article 12 of the Convention concerning recognition of the right of minors to express themselves in court. In future, a child who is capable of forming his own views is entitled to be heard in any proceedings affecting him.

85. These provisions are not just an extension of previously existing rules designed mainly to enlighten the judge and to assist him in making his decision. They effectively establish a new right for the child, namely, the right to speak in proceedings.

86. Since it is a right of expression, this right does not confer upon the child the capacity of party to proceedings. When a minor requests a hearing, that hearing may only be rejected by a specially reasoned decision. But in a case of the child's emancipation, a hearing is always necessary. The child may be heard alone, with a person of his choice, or a lawyer and may in the latter case, have the benefit of legal aid.

87. Furthermore, when the interests of the minor are involved in proceedings, but differ from those of his parents, the Act of 8 January 1993 facilitates the appointment of an ad hoc administrator to represent him in the proceedings, designated ex officio, by the judge, or at the request of the minor himself.

88. Regarding the assumption of legal costs incurred for cases in which minors are parties to proceedings, the Act of 10 July 1991 relating to legal aid extends that aid in every case.

89. The implementation regulations provide inter alia the opportunity for the bar associations concerned to enter into an agreement with the Ministry of Justice as part of a special arrangement for defence cases before courts of summary jurisdiction. This provision may be applied in the defence of minors before the juvenile magistrate or the juvenile court.

90. The Act of 10 July 1991 also sets forth the principle of assistance in access to the law.

91. The specialized training of lawyers has been organized by the bar associations in different ways. Lawyers of minors have, with the assistance of associations, also set up a national network which enables them to meet regularly in order to exchange information on their experiences. To this end, meetings and seminars have been organized by the bar associations of Marseilles, Lyons, Strasbourg, Rochefort-sur-Mer, etc.

b.3. Informing young people about their rights

92. This is one of the fundamental principles set forth in the Charter for the Information of Young People, signed in March 1991 by the Ministry of Youth and all the youth information centres.

93. This right is guaranteed in order to give young people access to autonomy and responsibility, to encourage their social commitment and to help them to become active citizens.

94. To enable this right to be exercised, several hundred youth information centres, offices and focal points, (Youth focal points) have been set up by the authorities. This process should continue throughout the country.

95. With the financial support of the authorities, highly diversified and original methods have been used to provide access to the law and legal information; in addition to the round-the-clock services available at the premises of the law courts or in bar associations, lawyers have ensured that information is accessible to minors in the places that they usually frequent. Thus, legal services also operate in high schools, the permanent reception, information and guidance offices (PAIOs), or facilities for the legal protection of young people. In Montpellier, with the backing of the local board for the prevention of crime, a young people's information bus travels around the various parts of the town, and parks on Wednesday afternoon in the town centre. Lastly, some of the justice and law offices recently set up by certain courts organize consultations by specialized lawyers for minors. These initiatives have been extensively publicized, through press campaigns and public awareness programmes, which target persons under age ("the Wednesday lawyers" and "on Wednesday I call my lawyer").

96. Furthermore, the Act of 10 July 1991 relating to legal aid and its implementing regulations of 19 December 1991 concerning, inter alia, the contribution by the State to the remuneration of lawyers, public officers and judicial officers, provide that, henceforth, educational assistance will be among the matters taken into consideration in calculating the appropriation that the State will pay annually to bar associations for legal aid.

b.4. The consent of the minor to acts affecting him

97. The Act of 8 January 1993 increases the number of acts affecting the minor to which he must give his consent after the age of 13.

98. This applies to any change in his first name, an administrative change (in other words not resulting from a change in his filiation), his surname and his adoption, whether the latter breaks the ties with his original family or not.

b.5. The personal legal status of the minor

99. The Act of 8 January 1993 provides two new measures which reinforces this status.

The right of the minor to have his filiation established

100. The Act facilitates the right of a child to have his filiation established, by providing, on the one hand, that it may take the form of an attested judicial act, declaring his status of legitimate child or natural child and, on the other, by removing any obstacles to his application to the judge in case of a legal investigation into his filiation.

The right of the child to be brought up by both parents

101. The Act of 8 January 1991 seeks to make the joint exercise of parental authority a general practice, whether the parents are married, divorced, or cohabiting (see paras. 243 ff. below).

B. Existing or planned mechanisms at national or local level, for coordinating policies relating to children and for monitoring the implementation of the Convention

I. Monitoring the implementation of the Convention

102. In June 1989, the Prime Minister entrusted the Secretary of State for the Family with the task of coordinating ministerial measures for the implementation of the Convention on the Rights of the Child at the national level and made the Minister of Foreign Affairs responsible for the international aspects.

103. The activities of the Government in this domain are monitored closely by the two Parliamentary Assemblies. The Act of 27 January 1993 provides that the Government shall submit a report to Parliament every year, not later than 20 November, on the implementation of the Convention and on its policies relating to the situation of children in the world.

104. In addition, the National Advisory Commission on Human Rights has been consulted on several occasions. It has delivered opinions on the sexual exploitation of minors, on forced marriages, on draft legislation on bioethics, and on human rights education.

105. Furthermore, an original initiative has been developed in France within the associative movement (see annex 3), which has brought about an effective synergy of the activities of the authorities and those of associations.

106. Encouraged by the consideration given to the work of the non-governmental organizations during the drafting of the Convention at the international level, the French branch of the International Catholic Child Bureau and the French Committee for UNICEF took the initiative of convening a meeting, for a joint work project, of the organizations involved in the study, dissemination and promotion of the future Convention.

107. The Childhood and Family Institute, which is a national public body, will lead this group which, at the end of 1991, included some 100 associations working actively for the promotion and defence of the rights of the child. This group has acquired an independent status and, on 7 February 1992, formed the French Council of Associations for the Rights of the Child (COFRADE). On the basis of the wide range of sectors and tendencies which the members represent and their diversity (activists and experts), these associations have been extremely active since April 1988, firstly, by making the content of the Convention known and then by concentrating on defining and promoting the legislative and statutory reforms necessary to bring national law in line with international law.

108. An initial study entitled "Seventy-three ideas for the implementation of the Convention" was delivered to the Office of the Secretary of State for the Family in September 1990.

109. On 20 November 1991, on the second anniversary of the adoption of the Convention by the United Nations General Assembly, the Office of the Secretary

of State for the Family acceded to the wish expressed by this group of associations to meet the representatives of the authorities to assess the implementation of the Convention in France.

110. This meeting, in which about 20 ministerial departments participated, focused on the following topics: the international dimension of the Convention, the personal status of the child, the child and his environment, the child and the law, rights and citizenship, the child and the media. The proceedings of this meeting have been published.

111. Given the wide range of the discussions and the high level of the dialogue which took place, all the participants expressed the hope that it would be continued.

112. Another meeting was therefore organized, on 20 November 1992, by the Office of the Secretary of State for the Family, the Elderly and Repatriated Persons and COFRADE. Problems relating to adoption, children and international solidarity, the place of the child in judicial proceedings, children and television, violence and exploitation were discussed.

113. These two days confirmed recognition of COFRADE as an important representative of civil society and as a partner of the authorities. In addition, COFRADE enables the associations, which were each established to defend specific goals, to become aware of and to share the concerns of other associations.

114. The principle of an annual meeting to monitor the implementation of the Convention is now established.

II. Coordination of activities relating to children

115. Activities relating to children are undertaken in France by a very large number of public and private institutions. Coordinating these activities and assessing their impact on children's lives is therefore a constant challenge for the authorities.

116. Whether it is a question of children's access to education, health care, information or leisure, their physical or moral protection or their participation in social life, many institutions are involved and there are as yet not enough coordinating mechanisms at local and national level.

1. Range of institutions

117. Schools, including those catering for disabled and "maladjusted" children, are in a unique position. They are the only kind of institution that follows the development of all children and adolescents over many years (at least 10). In these institutions, the promotion, health and welfare services for pupils combat inequality and reinforce the system of prevention.

118. Social security bodies such as the family allowance offices implement various schemes for children in addition to paying social benefits to families.

119. The services responsible for the protection and promotion of maternal and child health, hospitals and practitioners make up the health-care system.

120. The departmental child welfare services have a general role in prevention and in providing assistance to families and children in difficulty.

121. The judicial authorities contribute through civil and criminal procedures to the protection of the person and interests of juveniles (children at risk, delinquency, disputes concerning divorce, parental authority, guardianship and family benefits, etc.).

122. The police services have a role in the prevention of juvenile delinquency and in the punishment of offences committed by or against children.

123. There is also a National Advisory Commission on Human Rights, whose human rights prize in 1992 had children's rights as its theme.

124. Lastly, there are health, social and educational associations and youth and popular education associations.

125. A long tradition of helping children and a particularly flexible mode of operation give the associations a very important role in France:

> Most of the publicly-funded measures of protection taken by administrations and judicial authorities are carried out by associations;
>
> Many voluntary associations work with children and families in a wide variety of fields, for example to reduce the school drop-out rate, improve the quality of life in urban areas, help very poor families, protect children who are maltreated, provide support for sick children and their families or for children with a parent in prison, etc.

126. Furthermore, most local authorities implement policies relating to children. They are able to provide facilities catering for young children and to finance school-related activities, efforts to prevent delinquency, etc. They also contribute to building a suitable environment for the development of children (playgrounds, green areas, etc.).

2. Coordinating mechanisms

127. The large number of institutions - in itself a sign of richness and dynamism - must not impair the overall coherence of policy relating to children. Coordinating these bodies is therefore a continuing concern of the authorities. Such coordination is all the more essential in view of the very great autonomy of the various institutions.

128. It is not uncommon for children to find themselves in difficulty because of conflicting approaches taken by the institutions involved. The introduction of training courses open to professionals from different institutions has already helped to improve the situation considerably.

129. Furthermore, machinery has been put in place to enable the various partners to work together in an integrated way. Three examples may be given: support for handicapped children; prevention of child abuse; and the reorganization of family litigation procedures.

130. With regard to disabled children, the basic legislative instrument is the framework law of 30 June 1975, which recognizes in particular the disabled child's right to education and training and has provided for coordination between the various institutions concerned by establishing an interministerial coordinating committee on matters of adjustment and readjustment, which works at the national level, and specialized education commissions at the departmental level.

131. Concerning child abuse, the Act of 10 July 1989 requires the establishment in each department, by the President of the Regional Council, of a coordinated multi-agency system for receiving complaints and responding to situations of maltreatment. This machinery is now in place in the various departments.

132. At the national level, a standing interministerial group for maltreated children, set up in 1990, coordinates action taken by the ministries involved in the prevention of maltreatment and the protection of maltreated juveniles.

133. Lastly, with regard specifically to the handling of legal disputes relating to the family, the Act of 8 January 1993 has introduced a basic innovation by putting most of this litigation in the hands of a single judge - the judge for family affairs.

134. Family litigation had previously been handled by eight different courts. To reduce the complexity of this system, the judge for family affairs will now deal largely with cases relating to parental authority, divorce and separation and their consequences, as well as maintenance obligations. (Cf. annex No. 1 - Report of the Council of State; and annex No. 2 - Children's rights in France.)

C. Measures taken or foreseen by States parties to make the principles and provisions of the Convention widely known to adults and children alike

135. A very extensive awareness-raising and information campaign relating to the Convention was launched even before its adoption. These efforts are being continued to meet a growing demand from everyone concerned (children themselves, social workers, doctors, teachers, elected representatives, members of associations, families, the media, etc.).

136. Some measures have been taken by the Office of the Secretary of State for the Family, which has entrusted the Childhood and Family Institute, a body under its responsibility, with the overall task of disseminating the Convention. The principal ministries concerned - those dealing with education and culture, justice, youth and sports - have also initiated certain activities, while others have been undertaken by non-governmental and professional associations or organizations.

137. These combined efforts by associations and the authorities, as well as the cruelty of current events (the tragic situation of children in the third world and in countries at war), have raised great public interest. Information activities take a wide variety of forms and it is therefore difficult to provide a complete account of them in this report.

1. General information

Child awareness-raising has been undertaken through various public and private initiatives

138. The Office of the Secretary of State for the Family arranged in particular for:

A survey of 70,000 children to be conducted in 1989, asking the young respondents how they understood their fundamental rights. This was an opportunity for the children (aged 12 and 13) to give their views on questions such as injustice, the scope of adults' rights over them, and their own rights now and in the future. The results of the survey were published by the French official documentation service;

The holding of "children's government assemblies" in several large cities, in which children accompanied by their teachers were able to participate;

Free distribution of copies of a version of the Convention adapted for small children;

Production of short television features on the main themes of the Convention;

The Ministry of Justice has also initiated open days for young people in the courts and some judges have taken part in information days in schools.

Public information activities began in 1988 and have since expanded

139. In addition to appearing in the Journal Officiel of the French Republic on 12 October 1990, the full text of the Convention has been reproduced in booklet form by the Office of the Secretary of State for the Family and more than 600,000 copies have been distributed free of charge.

140. Commentaries on the Convention and more generally on the topic of the rights of the child are to be found in a wide variety of written publications, books for adults and children, newspaper and magazine articles, booklets, studies and reports. A record of these is kept and updated by the Child and Family Institute.

2. Information for specific groups

141. At the suggestion of non-governmental organizations, "messengers of the Convention" training courses have been arranged by the Child and Family

Institute. The purpose of these courses, designed for people already sensitized to the subject of human rights, is to create a pool of speakers capable of explaining the letter and spirit of the Convention to all audiences. Approximately 1,000 "messengers" have been trained in this way.

3. Prospects

142. It is important to note that the demand for information about the Convention and children's rights is continuing to grow. Few instruments have raised so much interest among the general public. Demand is particularly strong in the world of education.

143. Information and awareness-raising activities must reach children, of course, but especially adults. Research shows that adults, through their behaviour, serve as children's primary cultural reference. They are seen as law givers by children and need to explain the law to them. To respond to these concerns, a further effort must be made in initial training and retraining programmes for all professionals working with children and young people. In addition, new tools of communication are envisaged.

144. The services attached to the Office of the Secretary of State for the Family are preparing an explanatory document on the Convention intended for children. The aim is essentially to find a suitable language that will facilitate interchange and understanding between children and adults. Also under consideration is the possibility of issuing parents, when they declare a birth, with a document explaining their rights and the rights of their child (cf. annex No. 2 - Documents providing information on and promoting the Convention).

D. Measures to make the report widely available

145. This report will be disseminated very widely to all public and private agencies cooperating in matters relating to children. It will be published by the French official documentation service to make it available to any citizen wishing to consult it.

II. DEFINITION OF THE CHILD (art. 1)

146. French civil law contains a definition of the child which corresponds to the one given in article 1 of the Convention, although instead of "child" it prefers the term "minor": "a minor is an individual of either sex who has not yet reached 18 years of age" (Act of 5 July 1974).

147. The child becomes a juridical person only at the moment of his birth. He then acquires an identity (name and nationality).

148. As a person, the child has rights and obligations but is legally incapable of exercising them. This measure is intended to protect the minor from his own inexperience and from any manipulation by third parties. The child's rights are exercised on his behalf by his legal representatives, usually his two parents, or one of them.

149. As a subject of law, the child can inherit property. The parents must administer such property and collect any proceeds therefrom until the minor reaches 16 years of age.

150. If both parents are deceased, a member of the family or, failing this, the State takes charge of the child's person and property.

151. In principle, the under-age child, being legally incapable, cannot himself exercise any of his rights until his eighteenth birthday, when he acquires full civil capacity.

152. In fact, minors and especially older adolescents (aged 16 to 18 years) are, through practice, legislation or case law, granted some freedom to exercise various rights.

153. Generally speaking, the law allows the minor to act on his own behalf where this is customary in matters concerning everyday life. Furthermore, the minor may consult a physician on his own and his views must be sought before any major medical treatment.

154. The law permits the minor, whether male or female, to have access to contraception and to be supplied with contraceptives on an anonymous basis.

155. A very recent law provides for minors, on their request, to be tested and treated for sexually-transmitted diseases free of charge and anonymously in certain authorized locations.

156. The law requires a young woman below the age of majority to consent to voluntary interruption of pregnancy, and such consent must be given without her parents being present.

157. At any age, the child may bring a matter before a juvenile magistrate and request the assistance of a lawyer. If the minor is 16 years of age or older, the juvenile magistrate must notify him of his decisions and the minor can appeal against those decisions. When the child reaches the age of discernment, he may be heard or request to be heard in any proceeding that concerns him. If the child is 13 years of age or older, he must agree to any change in his family name or first name or to any decision concerning adoption, unless this results from a change in his filiation. The minimum age for marriage is 15 for women and 18 for men. The marriage of a minor has the effect of emancipation. A minor may apply for French nationality at 16 years of age and may renounce such nationality as from the age of 17. At 15 years of age, the minor is entitled to have his own passport and no longer needs permission for travel outside the country. At 17 years of age, the minor can enlist in the armed forces but national service is performed after attainment of the age of majority. At 16 years of age, when education ceases to be compulsory, the minor can begin his working life. He can sign a contract of employment with the consent (which may be tacit) of his legal representative. (On reaching 14 years of age, adolescents can undertake light work during school holidays, and from age 15 they can learn a trade through an apprenticeship, combining school education with practical training in approved industrial or handicraft enterprises.) Minors are entitled to join trade unions.

158. The minor may freely recognize a natural child.

159. From the age of 16, the minor is able to make a will and can personally administer half of his property.

160. However, the minor also has obligations. Criminal or civil liability may, in particular, be incurred at an early age.

Criminal liability

161. Even a very young child may be found criminally liable but only educative measures can be applied in such cases. No criminal penalty can be imposed before the age of 13. Between the ages of 13 and 16, pre-trial detention is possible only in connection with criminal acts.

Civil liability

162. The child may at a very early age be considered liable for damage resulting from his actions or for things put in his charge. His parents bear joint and several liability for damage caused by the child while he is living with them (if this is not the case, he alone is liable in respect of his own property). In practice, such liability is generally covered by an insurance policy.

163. On reaching 16 years of age, the minor may be emancipated. If there are valid reasons, the judge will grant emancipation after hearing the child's views. Parental authority ceases and the juvenile acquires the capacity of an adult.

Prospects

164. In order to facilitate the realization of the various rights of the child recognized by the Convention, work is in progress in the Council of Europe to draft a convention on the exercise of children's rights. The aim is to help the minor exercise his rights effectively through access to information, consultations, hearings and other means.

III. GENERAL PRINCIPLES

A. Non-discrimination (art. 2)

165. French law as a whole respects the principle established by article 2 of the Convention. The only real discrimination that persists is against adulterine children in matters of inheritance. A bill already before Parliament to reform the law of succession aims at preventing such discrimination (cf. annex No. 5). The distinctions made between children who are de jure or de facto in different situations - for example, in regard to payment of family benefits (see below, paras. 324 ff.) or in matters concerning parental authority (idem., paras. 248 to 250) - cannot be regarded as discriminatory. They are based on considerations of family policy or protection of the child.

B. Best interests of the child (art. 40)

166. French law has long included a concept of the interest of the child that in no way differs from the concept of the best interests of the child embodied in the Convention. This constitutes the essential foundation of French family law and is the sole criterion by which parents and judges should be guided in action taken with regard to juveniles. However, it is not a subjective concept to be interpreted unconditionally by the parents. The interest of the child is subject to the supervision of the judges, who may have recourse to a variety of measures (public inquiries, medical and psychological examinations, etc.) to clarify matters fully.

167. The recognition by the Convention of the minor's right of expression undoubtedly gives a new dimension to this concept since, while not making the child the judge of his own interest, it does enable the court to seek further clarifications from the minor to determine where his interest lies.

168. Likewise, with regard to hearing the child's views, the Act of 8 January 1993 affords the general possibility for a third party to be appointed to represent and defend the minor's interests when they appear to be in conflict with those of his parents.

169. At the international level, this common reference to all States parties to the Convention should make it possible to resolve more easily any inconsistencies that might result from the application of different laws.

C. The right to life, survival and development 2/ (art. 6)

170. The bill relating to the human body (cf. annex No. 5) recalls that "the primacy of the person is the foundation of society". The law ensures that this principle is reconciled with the legitimate requirements of progress, scientific knowledge and the protection of public health. It guarantees respect for all human beings from the moment that life begins.

171. French law strictly regulates the voluntary interruption of pregnancy, which is allowed if it is requested by a woman in a state of distress, if it is rendered necessary by the mother's state of health or if there is a strong probability that the unborn child has a particularly serious incurable disease. To avoid any dispute regarding this legislation, France has made an interpretative declaration under article 6.

172. Protection of the pregnant woman and care during her pregnancy are among the priorities of French family policy, which therefore requires that:

The pregnancy should be declared to a social security body;

The future mother should have medical examinations before and after the birth. These examinations, which have recently been increased in number, are given free of charge in public maternal and child health centres.

2/ See also Santé et bien-être (Health and well-being), No. 11, pp. 58 ff.

173. The safety of childbirth has improved remarkably in France over the past two decades (see below, p. 63 Statistical information and indicators - Changes in the indicators of safety of childbirth in France, 1970-1990).

174. In order to prevent any risk of infanticide or abandonment of the child, the law recognizes the mother's right to request that the birth remain confidential.

175. Through a system of benefits, the State aims to ensure greater equality in standards of living between families which have children and those which do not. The financial assistance provided to future parents should enable them to cope with the expenditures occasioned by the arrival of a child. It includes:

Substantial allowances paid before and after the birth;

Full coverage of medical expenses relating to pregnancy, childbirth and postnatal care.

176. This very child-oriented legislation is supplemented by specific provisions for future mothers who work. The child's right to life is linked to normal pregnancy and trouble-free birth, and this requires major alterations in conditions of employment:

During pregnancy a change of post is possible, with no reduction in remuneration, and dismissal is prohibited;

Maternity leave before and after childbirth is covered financially by the social security system;

Parental leave to bring up the child may be granted to one of the parents without termination of the contract of employment.

177. Furthermore, the flexibility of working hours has improved considerably in recent years. The possibility of individualized working hours is an advantage welcomed by employees who have family responsibilities. Part-time working has become a right of employees with the Act of 3 January 1991. Pregnant women can have their working schedules rearranged: arrival at and departure from work at different times from normal, additional rest periods, smaller number of hours worked per day after the third or fourth month of pregnancy, etc. These measures to reconcile working and family life are continuing to be improved (cf. annex No. 5: Act of 27 January 1993).

178. This legislation is particularly important because nearly three out of four women between the ages of 25 and 49 work or are seeking employment: 77 per cent of mothers with one child, 70 per cent of mothers with two children and 47 per cent of mothers with three children (27 per cent if the last child is less than three years old). Among women who work, 22 per cent are employed on a part-time basis.

179. Ensuring the new-born child's survival, growth and development to adulthood is the parents' essential task. The parents have an obligation to provide the child with support, including food, clothing, accommodation, care

and educational expenses, which may continue beyond the age of majority. This obligation lies with both parents, whatever their marital status, or with their own parents in case of default (see below, paras. 243 ff.).

180. However, parental duties are not limited to material support but include a duty to educate, supervise and protect the child, ensuring his safety, health and morality.

181. Society was for a long time indifferent to the exercise of parental responsibilities, viewing the parent-child relationship as a private matter. Gradually, the State became active in providing support to disadvantaged families (social and medical assistance). Assistance given by the community is, however, of a subsidiary nature and necessarily limited (see below, para. 345). Furthermore, the criminal law penalizes parents for physical or moral abandonment of the home, and in particular for non-payment of maintenance.

D. Respect for the views of the child (art. 12)

182. The recognition of this right directly linked to the child's right of expression is, as already mentioned, one of the Convention's major contributions in France. This is shown by the recent legislative reforms (see above, paras. 78 and 79). But, aside from legislation, there is essentially the question of attitudes of mind.

183. The fears raised by this article have served to justify drawing the attention of parents and educators to language and practices that are contrary to the child's interests. A consensus has been established on the following ideas: expressing a point of view is not the same thing as taking a decision. Respecting the child's opinions means listening to them, but not necessarily endorsing them. The adult decision maker's task is to add the child's viewpoint to other elements which might contribute to an enlightened decision. The child's age and maturity are, of course, decisive parameters (see above, paras. 161 ff.).

IV. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality (art. 7)

184. As a person, the child is entitled to respect for his identity. When the birth certificate is drawn up a child is given one or more first names. His surname is derived from the rules of filiation.

185. Every child born in France must be declared to the registry office within three days of his birth. This obligation is incumbent on the father or, in the absence of the father, on the medical staff present during the birth.

1.1. Name

Name of child whose filiation is known

186. Depending on the parents' marital status, the child shall bear either the name of his father (if he is legitimate), the name of the parent who first

recognized him, the name of the father in case of simultaneous recognition (if he is a natural child) or the name of the mother if he has not been recognized (a natural child). In accordance with custom, he may take both parents' names, if the parents so decide. This double name does not appear on the civil register, but only on administrative or private documents. It may not be transmitted.

Name of child whose filiation is unknown

187. If the name of at least one of the parents does not appear on the birth certificate, the registry office gives the child several first names, the last of which serves as a surname.

Change of name

188. After receiving a name at birth, a child may change his name.

A name acquired by filiation follows any changes in filiation (adoption or judicial decisions establishing or altering filiation);

A name can also be changed by administrative decision (in order to give it a French form, for example).

189. Since the adoption of the Act of 8 January 1993, any change of name in the case of a child over 13 years of age requires the child's personal consent when the change does not result from the establishment or alteration of affiliation.

1.2. First name

190. Like the surname, the first name is an essential attribute of a child's identity. Since the adoption of the Act of 8 January 1993, the father and mother have been free to choose a child's first names, subject, if necessary, to subsequent control by the judicial authorities if such a choice appears to be incompatible with the child's interests. Any person able to prove a legitimate interest may apply to change a first name. If a child is over 13 years of age, his personal consent is required.

2. Nationality

191. Any child born or living in France is entitled to a nationality.

192. 2.1. According to French legislation, the following are French:

Children having at least one French parent;

Children born in France, one of whose parents was also born in France;

Children born in France, if they have no other nationality, either because they were born to unknown or stateless parents or because they are not entitled to their parents' nationality;

According to each case, children adopted or taken in by French nationals become or can become French.

193. However, a child born in France is not always entitled to the nationality corresponding to his family or geographical origins. For example, a child born in France to foreign parents acquires French nationality solely because his parents' national legislation does not confer on him their nationality.

194. From the age of 16, a minor may intervene in the choice of his nationality. A series of provisions allow him to apply for or to reject French nationality before he reaches majority, with the consent of his parents.

B. Preservation of identity (art. 8)

195. Article 8 of the Convention establishes the right of the child to have his identity preserved and defended against any interference by third parties. The Act of 8 January 1993 implements the principle established by the Convention by requiring the consent of a minor over 13 years of age to an administrative change in his surname or changes in his first names.

196. More generally, French courts protect the identity of individuals against interference by third parties and also allow persons without an identity to be granted one.

197. As regards the right to know one's origins, which is a specific aspect of the right to an identity, French legislation allows the child access to his origins, without making such access an absolute right. It is not in contradiction on this point with article 7 of the Convention, which grants the child the right to know his parents, but only as far as possible. In France, therefore, adoption does not prevent a child from ascertaining his origins. A child may also take steps to establish his filiation.

198. There are only three cases in which the minor will encounter an obstacle:

When the mother has requested that her identity should be kept secret, during the birth and declaration of the birth. This measure is intended to avoid infanticide and to respect the freedom of women. The Council of State, aware that there may be conflicts between the rights of the child and those of the mother, has advocated the establishment of a "board for research into family origins" to which persons who have come up against the rule of confidentiality might refer.

When there has been medically-assisted procreation with a third party donor. The standard practice, which is confirmed in the bill on bioethics, guarantees the anonymity of the donor. This is in the interests of everyone: the donor, in order to avoid any actions against him, the couples who, by having recourse to these procedures, might find that the practice became rarer if the identity of the donors could be revealed, and the child, who should be a child like any other without having to face problems of a dual relationship.

When parents who place their child in the care of the child welfare authorities request that their civil status should be kept secret, which amounts to depriving a child of his biological filiation.

C. Freedom of expression (art. 13)

199. All studies conducted on young people underscore their demands for greater freedom of expression. As indicated earlier (see above, paras. 78 et seq.) freedom of expression has increased significantly in schools, specialized facilities and society at large in recent years.

200. By recognizing to the child the right to freedom of expression but also the right to the protection of his name, his identity, his privacy and his family relations, the Convention has revived the traditional debate on the relationship between the media and young people.

201. Children are increasingly approached by the media as witnesses or protagonists in current events that affect them directly in the context of their everyday life or social events.

202. Children who are caught in a conflict between adults, for example when their parents separate, are projected into the public arena. Others have the same experience as a result of proceedings between their families and institutions such as the child welfare services or the judiciary, for example, concerning placement or projected adoption. However, the child involved does not gauge the impact made by his appearance or his statements, and such an experience usually proves harmful both to him and his environment.

203. Some have even proposed that the provisions of criminal law which prohibit the media from giving any account of juvenile court proceedings or revealing the identity of young offenders should be extended to all civil proceedings involving a child.

204. Before considering such a drastic measure, it would seem crucial that media professionals should succeed in defining ethical rules guaranteeing freedom of information, the child's freedom of expression as well as his protection.

D. Access to appropriate information (art. 17)

205. The right to be informed is taking on its full importance in a society dominated by communications, where the sources of knowledge are no longer the family and the school, but primarily the media. Depending on their age children should be able to have access to the various sources of information offered by books and the written press, television and the various forms of data transmission. The affirmation of this right implies education in the use of the media and the implementation of special measures of protection.

1. Education in the use of the media

206. In 1983, the Ministry of Education established a Teaching and Information Media Liaison Centre (CLEMI). The Centre is available to teachers and pupils to increase their familiarity with the media system and help them to decipher

information messages. It encourages young people to express themselves by producing information documents in the school context (newspapers, radios, video recordings). It enables them to use current events with a view to citizenship education. It collects the documents produced by the pupils, publishes educational material for the teachers and maintains relations with numerous partners at the international level.

2. Systems of protection

207. In addition to the criminal penalties laid down, for example, for affronts to public decency or incitement to suicide, which are not specific to minors, French legislation contains special provisions aimed at protecting children in their access to the various information sources.

2.1. The press

208. It may generally be considered that young people, of all age groups, have access to a varied and high-quality press.

209. The Act of 16 July 1949 on publications intended for young people covers all publications intended for children and adolescents. These publications must not contain "any illustration, story, report, item or insert showing in a favourable light banditry, mendacity, theft, laziness, cowardice, hatred, debauchery or any acts qualified as crimes or offences or calculated to demoralize children or young people or to inspire or promote ethnic prejudices". All publicity calculated to demoralize young people (alcohol, tobacco, etc.) is also prohibited.

210. A commission responsible for the supervision and control of these publications has been set up within the Ministry of Justice. The commission exercises control a posteriori, with the possibility of instituting legal proceedings, over all publications (periodicals and books) intended for children or adolescents. It meets on a quarterly basis.

211. Control is exercised at three levels:

Supervision of the publishers of the works, who are subject to stricter conditions than those for the ordinary press agencies set forth in the Act of 1881,

Control over the content of the publications (see above),

Five copies of works intended for young people must be filed with the secretariat of the commission.

212. In addition, article 14 of the Act stipulates that the Commission is empowered to draw to the attention of the Ministry of the Interior any "publications of any nature constituting a danger to young people because of their licentious or pornographic nature or their emphasis on crime, violence, racial discrimination or incitement to the use, possession or traffic of drugs. On this basis, or on his own initiative, the Minister of the Interior may issue an order imposing certain bans.

213. There are three types of ban:

1st level: ban on sale to minors.

2nd level: ban on sale, public display or publicity in the form of posters.

3rd level: ban on sale, public display or any form of publicity.

214. Regarding publications generally, the commission may also notify the Minister of Justice with a view to instituting possible proceedings against offending publishers.

2.2. The cinema

215. The admission of minors to cinemas is regulated by a decree dated 18 January 1961, which also established a cinematographic supervisory committee, the membership of which was amended by a decree dated 23 February 1990. The Minister of Culture issues a Certificate of release upon receipt of the findings of the committee which may even propose a total ban on a particular film. In addition, the 1975 Finance Act introduced an "X" classification for pornographic or violent films, prohibiting the admission of minors under 18 years of age to cinemas where such films are being shown.

216. Each cinematographic work gives rise to one of the following measures:

A certificate authorizing the work to be shown to all audiences;

A certificate stipulating that the work may not be shown to minors under 12 years of age;

A certificate stipulating that the work may not be shown to minors under 16 years of age;

A total ban on the cinematographic work.

217. The Minister of Culture issues the certificate of release upon receipt of the findings of a classification committee made up of representatives of the State, persons employed in the film industry and experts, including four young people between 18 and 25 years of age.

2.3. Television

218. The Audiovisual Media Board (CSA), an independent authority, is responsible for assuring the protection of children and adolescents in the planning of broadcasts. It must be extremely vigilant about anything that might harm the sensibilities of young viewers. The Board has published guidelines for television channels and has initiated proceedings against those that did not follow them.

219. As children spend more and more time in front of the television set (an average of two and a half hours per day), the CSA has recently conducted a

study on children's programmes. The study indicated that there has been an improvement in general programme quality, but that it is also necessary to set up a legal framework for programme broadcasting.

220. In its recent report, the CSA proposes the following:

Changing and improving the provisions on children's programmes in the public channels' schedule of conditions;

Encouraging private channels, as part of the organization of operating authorities, to make specific arrangements for programmes for young people;

Setting up internal structures for viewing films and establishing ethics committees;

Asking broadcasters to submit an annual status report on their activities in the area of children's programmes;

Diversifying the choice of programmes available;

Further harmonizing the young people's programmes broadcast by the two public channels;

Strengthening measures of protection against images that might harm their sensibilities;

Identifying programmes as being intended for young people;

Restricting advertising and other trade practices in young people's programmes;

Developing support for the production of young people's programmes and extending this support to all broadcasters.

221. In addition, the National Teaching Documentation Centre provides school television programmes, such as "Paroles d'école" on FR3, for children in kindergarten, primary and secondary school.

2.4 The Minitel (home interactive viewdata terminal)

222. Since children have become highly proficient in using this instrument, it has become essential for parents to have some means of controlling their children's access to the Minitel and telephone. A new system will shortly be introduced making it possible to select only those services that the user wishes to receive (see above, paras. 76 and 77).

2.5 Video cassettes

223. Since the adoption of the decree of 23 February 1991 regulating access by minors to cinemas, video cassettes offered for rental or sale must indicate on their packaging any prohibitions linked to the issue of the certificate of release for the work.

E. Freedom of thought, conscience and religion (art. 14)

224. These freedoms are recognized as fundamental principles by the laws of the Republic. The State therefore refrains from providing guidance in respect of opinions and beliefs, especially those of the children placed in public schools. The principle of secularism means that there must be complete neutrality in the expression of opinions in the public schools, and that any religious or political proselytism is prohibited. A recent study was published by the National Advisory Commission on Human Rights on the right to religious expression in a secular society (1992 report).

225. Similarly, the legislation on educational assistance (see below, paras. 268 et seq.) makes it mandatory for the juvenile magistrate to take the religious or philosophical convictions of the minor and his family into account.

226. It is for parents to bring up their child with a respect for his personality. For the Convention, especially in such matters, parents should be a guide, a reference and a moral authority for the child in order to prepare him to live in society in a spirit of peace and tolerance. Parents are urged to promote the exercise of these freedoms especially as regards adolescents.

F. Freedom of association and of peaceful assembly (art. 15)

227. French legislation regulating associations acknowledges that if a minor joins an association it is an act of everyday life for which he has his parents' tacit agreement. As an active member of an association, a minor can vote in the general assembly and be elected to the board of directors which is responsible for implementing the decisions of the assembly and the bureau.

228. However, minors cannot hold the offices of president or treasurer, since their legal incapacity precludes them from representing the association in legal proceedings.

229. High hopes can be placed on associations and their activities. They are a unique form for social participation, as the value of a society depends on its capacity for developing a community fabric from which collective interests and mutual commitments can emerge.

230. De facto associations, which French legislation recognizes, are also part of such activities. These short-lived associations set up for a specific purpose seem to meet young people's needs better than formal associations.

231. The authorities' objective is, on the one hand to urge associations to offer a place for young people, and on the other, to enable young people to meet the minimum material requirements for launching their projects: subsidies for renting premises, holding meetings, etc. It might be imagined that de facto or de jure associations will be established in all areas - sports, culture, recreation - and some might even be based on the promotion and defence of the rights of young people, at a time when only adults have

such rights. Young people availing themselves of freedom of association will have a double effect: personal experience of individual and collective responsibility, and an enrichment for young people and adults alike.

232. A number of associations have been set up in schools, some by order or circular such as socio-educational hostels, health clubs and athletic associations. Established by the teachers or by the pupils themselves, they enable the pupils to exercise collective responsibility. The aforementioned recent text (decree of 18 February 1991) set forth the conditions in which associations in high schools shall operate and exercise their right of assembly.

233. In addition to associations and their activities, mention should be made of a new campaign begun by the authorities in 1992, the "Youth Projects" (les projects J) for young people.

234. Based on the observation that young people do not always think in terms of forming associations to achieve their individual or collective projects, "Youth Projects" give them the possibility of obtaining rapid financing to realize an ambition (a journey) or begin a project (cultural, athletic or humanitarian).

235. The "Youth Projects" were immediately successful in the summer of 1992: most were collective projects, involving high social ambitions (80 per cent of the participants are poor performers in school, and over half of the projects are aimed at having them take part in community life).

236. This new policy, based on direct communication with young people, was validated by the results of a recent poll analysing the behaviour of young people from 13 to 25 years of age with respect to community activities: although associations established by adults generally have a fairly positive image, young people feel, however, that they cannot always find an association that meets their needs close to their homes and that in any case associations do not take them sufficiently into account.

G. Protection of privacy (art. 16)

237. Under article 9 of the Civil Code, everyone is entitled to respect for his privacy. Children, like adults, are therefore protected against interference with their privacy. This right is understood as referring to both public and private interference. Judges may order measures for preventing or putting an end to attacks on privacy. Respect for the child's privacy and personal life should be examined in particular in two specific areas.

1. The media

238. As indicated earlier (see above, paras. 199-204), certain situations raise the problem of finding a balance between the recognition of freedom of expression and the protection of privacy. In addition to the Civil Code's stipulation that "Everyone is entitled to respect for his privacy", in a general text carrying penalties and also applying to minors, the latter are protected by a series of specific texts.

239. The disclosure of aspects of a minor's private life (photos, films or information) is conditional on written authorization by those who exercise parental authority.

240. In addition, article 14 of the order of 2 February 1945 relating to juvenile offenders prohibits the publication of the proceedings of juvenile courts in books, the press, on radio, in films or in any other way whatsoever, as well as any text or illustration concerning the identity or personality of young offenders. Therefore, a decision, handed down at a public hearing, may only be published if the minor's name has been carefully concealed.

241. Similarly, article 39 bis of the Act of 29 July 1881 relating to the freedom of the press prescribes a similar offence and penalty in the interest of minors and prohibits the publication of any text or illustration concerning the identity or personality of minors under 18 years of age who have left their parents, guardian, the person or institution which had custody over them or to whose care they had been entrusted.

2. Mail

242. This aspect of the child's life is evoked in the Convention. Parents have a responsibility to supervise the mail addressed to young children, considering the representations of various kinds which might be made to them. The Postal Services Code specifies that ordinary mail, registered mail or mail of a declared value, addressed "poste restante" to non-emancipated minors under 18 years of age, may only be delivered to them upon presentation of written authorization by their father or mother or, in the parents' absence, their guardian.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A and B. Parental guidance and responsibilities (art. 5 and art. 18, paras. 1 and 2)

243. For the past 20 years, family law in France has been undergoing profound changes in order to adapt to the changes in standards of behaviour. The Act of 4 June 1970 replaced the concept of paternal authority, inherited from Roman law, with that of parental authority, thereby establishing equality between the father and mother in their relations with their children.

Parental authority

244. This is the whole complex of rights and duties that the law grants to or imposes upon the father and mother in respect of the person and property of a minor child who has not reached the legal age of maturity. It is a duty/function that must be exercised in the interests of the child in order to assure his welfare.

245. Parents have the right and duty of custody, of supervising and of educating their child. They must support him and, where necessary, administer his estate (administration and legal usufruct). They incur civil liability for damage caused by the child.

246. If this duty is not performed or is performed badly, with the result that the child is in danger, the juvenile magistrate may intervene, under the educative assistance procedure, to take the necessary protective measures (educational support combined, where necessary, with the temporary removal of the child) and to assist the parents in better fulfilling their responsibilities. In case of severe negligence, forfeiture of parental authority may be decided by the courts. Where new circumstances arise, the restitution of parental rights may be requested.

247. Parental authority, thus defined, meets the requirements of article 5 of the Convention, and it has not been deemed necessary to replace it by the concept of parental responsibility (see annexes 1-5).

The exercise of parental authority

248. In the context of article 18 of the Convention, the Act of 8 January 1993 is aimed at generalizing the common exercise of parental authority.

- In respect of a legitimate child, parental authority is exercised jointly by the parents during the marriage and even in case of divorce. In the latter situation, failing an amicable agreement, or if such an agreement appears to go against the interests of the child, the judge designates the parent with whom the child will normally reside. If the child's interests so require, the judge may confer the exercise of parental authority upon one of the parents.

- For a natural child, parental authority is exercised jointly by both parents if, having recognized the child before he has reached one year of age, they are living together at the time of joint or separate recognition.

249. If the child's affiliation is established in any other way, parental authority is exercised by the mother, except where the two parents express before the judge the desire to exercise parental authority jointly.

250. In all cases, irrespective of whether the child is legitimate or natural, the father, mother or Office of the Public Prosecutor (who has the overall task of protecting those who cannot protect themselves, and thus, of protecting children) can request the judge to modify the exercise of parental authority.

C. Separation from parents (art. 9)

251. The right of children and their parents to live together, a principle likewise set out in the European Convention on Human Rights, is fundamental to French legislation. Children must not be separated from their parents except when the interests of the child so require. The placement of a child who is in difficulty or in danger may be decided on by the authorities only with the consent of the parents. Should they refuse, only a court decision can resolve the matter. The legal provisions relating to educative assistance remind the judge that a minor child must be kept in his or her family environment wherever possible.

252. The right of children to live in their family with both their parents is withheld in situations in which adults are unable to separate their conjugal difficulties from their parental responsibilities, and their relationship is one of conflict.

253. The most common cases involve children whose parents are no longer living together. Generally, the child resides with one of his parents and has contact with the other only at the weekend and during school holidays. The parent with whom the child does not reside retains the right to supervise his education and must be informed about important decisions in the child's life. This parent participates in the child's maintenance by paying child support. Visiting rights and the right to house the child on a temporary basis may be refused only for most serious motives.

254. Tragic situations, however, are often encountered in which children are not only separated but definitively cut off from a parent and from the extended family. In conformity with the Convention, the Act of 8 January 1993 aims to establish a new approach based on dialogue and amicable agreement between the parents. Family mediation techniques introduced a few years ago in France have also developed significantly.

255. This practice, which is a way of resolving family disputes amicably by involving the parties concerned in ending them, with the assistance of a qualified individual, is especially valuable when children are involved, for the parents' adoption of mutually agreed solutions precludes the outbreak of subsequent conflicts, and at the same time promotes stability in the new situations.

256. Many associations are involved in mediation, in cooperation with the judiciary. This approach is generally supplemented by support to divorced persons and the creation of neutral areas to promote the exercise of visiting rights.

257. The Ministry of Justice is carefully monitoring the progress made with this new method of resolving family disputes, and provides financial assistance to the most innovative experiments in order to be able to assess them subsequently.

Children whose parents are in prison

258. The authorities have a policy of providing facilities for families visiting one of their members in prison. Between 1990 and 1991, this policy was put into effect as a result of increased financial support granted to the associations that organize, inside penal establishments, facilities catering for visiting families. These associations acquire special expertise regarding children who come to see their father or mother in prison. The involvement of specialists who work with small children also help prison inmates to assume their parental responsibilities better. The number of children who have been separated from one or both of their parents is calculated at 140,000.

259. Improving the care provided for the 50 or so children less than 18 months of age who are living with their mothers in prison is also a concern of the authorities.

260. An interministerial working group is looking into the issues involved in the upbringing of these children within the prison environment and upon their separation from their mothers.

D. Family reunification (art. 10)

261. National borders should not form an obstacle to relations between a child and his parents. Article 10 concerns families that have been separated owing to immigration or other circumstances.

Owing to immigration

262. Under the so-called family regrouping procedure, the French Government authorizes the entry into France of children of foreigners who regularly reside in the country. Children then have the right to residence and work permits similar to those issued to their parents. Only serious motives provided for under the law can justify refusal of entry into France and of issuance of a residence permit.

When a couple with different nationalities separates and decides to live in two different countries, major difficulties can then arise.

263. Experience shows that the right of the child to preserve contacts with both parents when they are separated can be jeopardized by lack of understanding or ill will on the part of individuals and even sometimes of States. Each parent may be tempted to take the child "hostage", using his national legislation to support that action.

264. The Convention affirms the child's right to preserve contacts with both parents beyond national borders. Many bilateral and multilateral conventions have as their purpose the prevention of child abduction and the effective implementation of court decisions setting the conditions for the exercise of parental authority (see below, paras. 302 to 306).

E. Recovery of maintenance (art. 27, para. 4)

265. In view of the responsibility of maintenance, the parent with whom the child does not normally reside must pay child support. The amount is established by the court in cases where no amicable agreement is reached. It is calculated, and is subject to review at all times, on the basis of the payer's resources and the child's needs.

266. The failure to pay maintenance is the subject of a major controversy. According to some estimates, one third of such payments are not made, while another third are made on an irregular basis. To resolve this problem, the law provides for the following options:

Direct payment by the debtor's employer of the portion of salary corresponding to the unpaid amount of child support;

Collection by the public treasury;

In cases in which these procedures yield inadequate results, there is a system for recovery through the family allowance offices. These offices make a so-called "family support" payment to the parent to whom it is due and have the task of ensuring direct recovery of child support payments directly from those who fail to make them;

The Act of 9 July 1991 reforming civil enforcement procedures has improved the effectiveness of the standard procedures for obligatory enforcement;

The offence of family desertion is subject to penal sanctions.

267. The experience of the family allowance offices indicates that the very low income level of debtor parents and the reluctance of individuals to use legal channels could unleash further conflicts partly explain the failure to pay maintenance and the limited effectiveness of coercive methods. Many debtors also stress the unjust nature of the maintenance obligation when it relates to a child with whom the ties of affection have been broken. Promoting contacts between the two parents and their children despite the separation is the most effective means of combating failure to pay child support.

F. Children deprived of a family environment (art. 20)

268. Owing to the long tradition of welfare services, France's child welfare arrangements meet the requirements of articles 9 and 20 of the Convention.

269. Since the end of the nineteenth century, and especially since 1945, the aims of policies in this area have radically changed. The priority is no longer to separate the child from the family for protection purposes, but to do everything possible to avoid such a separation by providing preventive assistance to the parents. Various approaches have been developed: financial assistance, in-home aids, family education, neighbourhood activities, etc.

270. The Act of 6 June 1984 enunciated the rights of children and parents in their relations with the welfare services (see annexes 1 and 2). The results of this policy and the overall improvement in living conditions have helped to reduce substantially the number of children deprived of their family environment.

Children temporarily deprived of their family

271. A number of steps can be taken. When parents are confronted with temporary difficulties (e.g. hospitalization), they can entrust their children to the child welfare services. They may also give their children into the care of a trustworthy individual or an authorized institution. If they wish to renounce the exercise of parental authority partially or entirely, such authority may be transferred by the court to the individual who is to care for the child.

272. Children may also be entrusted to such institutions by the judiciary, basically through the juvenile magistrate as part of educative assistance. The maximum length of either administrative or judicial measures of this sort is established by the law.

273. Depending upon their age and their needs, the children are entrusted either to a foster family, which receives payment and is backed up by qualified professionals, or to an institution. The period during which children are cared for by others should not be prolonged, so as not to jeopardize their return to their family.

Children permanently deprived of their family

274. These are mainly children who have no relatives, who have been explicitly and permanently handed over by their parents to children's aid institutions, or regarding whom the judicial authorities have pronounced the forfeiture of parental authority or made a declaration of abandonment. These children are taken charge of by the child welfare services, are declared to be children in care and are placed under the guardianship of the Prefect (representing the State in that particular département), who is assisted by a family council (a body made up of members of family associations, qualified individuals and elected officials). Children in care, irrespective of their age and status, must by law be put up for adoption as rapidly as possible.

G. Adoption (art. 21)

275. This question is one that fascinates French public opinion and gives rise to continuing media attention (see annexes 2 and 3). The legal and administrative machinery available in France presents no problem and corresponds to the terms of article 21 of the Convention. Yet, it was designed for the adoption of children born in France and contains very few measures relating specifically to the adoption of children born abroad; it therefore needs a number of adjustments in order to meet the requirements of article 21.

Adoption of children born in France

276. Adoption procedures have been evolving in France since the early 1980s. The desire for children is very strong today in French society. Many people who are having difficulty in procreating consider it intolerable to live without a child.

277. At the same time, the number of children in care has fallen sharply (less than 5,000 in 1992, most of them aged over 15 years).

278. This group is very slow to replenish itself. The number of children placed in care at an early age has stabilized at around a thousand, and these children are adopted within a year.

279. Other children are placed in care at a later age (between 5 and 10 years) through a court decision on abandonment and following a painstaking procedure

to ascertain that all ties between the child and his or her family have been severed. Adoption is envisaged for such children following lengthy preparations.

280. In France, as in similar European countries, there is a growing gap between the number of families wishing to adopt a child and the number of children available for adoption.

281. Paradoxically, there are children in care who are not adopted. Some children, because they are "too old", sick or disabled or because they have brothers or sisters, do not correspond to the expectations of would-be adoptive parents and do not find a family.

282. The efforts to achieve greater awareness among families who could accept these children and among the child welfare services must be pursued.

1.2 Legislation

283. The adoption of a child who is in care or has been given over to the care of an institution in France involves an administrative stage and a judicial stage.

284. The administrative stage is intended to ensure that prospective parents offer the necessary qualities to take a child with a view to adopting him. Those qualities are attested to in an authorization provided by the child welfare services on the basis of sociological, educational and psychological criteria. When adoptive parents go through an adoption agency, control measures are carried out in respect of the activities of the agency, which is subject to authorization by the President of the General Council and to approval by the Minister for Foreign Affairs.

285. An adoption order is made by the judiciary. The authorization procedure is only a preliminary stage, not an obligatory one, in the judicial proceedings. Although the two stages are interrelated, they are separate.

286. An authorization issued to adoptive parents by the departmental child welfare service is intended to certify the capacity of the candidate or candidates to take on the role of parent and to be assigned a child.

287. This authorization, resulting from a procedure carried out in abstracto with respect to the child, provides additional elements that are submitted to the judge who is personally responsible for determining whether to establish a filiation.

288. The control measures carried out at the time of establishing the authorization by the administrative authorities do not have the same objective as those carried out by the courts during the adoption process itself. A distinction between the roles and competences of the two authorities must be preserved in any procedure of this nature. Under ordinary law, the requirement of an authorization imposed upon prospective adoptive parents by article 63 of the Family Code affects only children in care, and not the other two categories of children who may be adopted under article 347 of the

Civil Code, namely, those whose parents have given their full consent to adoption and those who have been the subject of a court decision on abandonment without having been given over to the child welfare services.

289. The child welfare services nevertheless are under an obligation not to entrust a child to anyone except authorized individuals unless adoption is requested by the child's foster family. In order to prevent trafficking in children, an agreement to adopt a child aged less than two years is valid only if it has been submitted to specialized services (art. 348-5 of the Civil Code). The authorization thus has a broader field of application than is indicated by the texts.

290. In the judicial stage, a period of six months must elapse after the child has been placed with his or her family, and it is used by the welfare services or official adoption agencies to ascertain that the child is well integrated before the application for adoption is submitted.

291. Private associations known as "adoption agencies" work in tandem with government agencies as intermediaries for the adoption of children; they have the same competences as government agencies but are subject to a posteriori review by the latter. There are very few such private agencies in France.

2. Inter-country adoption

292. The increase in the adoption of children born abroad over the past 15 years is linked to the decline in the number of children available for adoption in France and to the growing number of people wishing to adopt children. This phenomenon occurs in the principal Western countries and reflects the worldwide economic upheaval. It is particularly prevalent in France, which comes second, after the United States, among the countries of adoption in terms of absolute numbers of children.

293. The similarities in the situation in Eastern European countries and in South American countries have been noted by the media, which are reporting with greater frequency on the often dramatic circumstances in which children are taken in. The situation is conducive to all kinds of abuses of which children are the primary victims, and the countries of origin, confronted with other emergencies, are not always capable of ensuring their protection.

294. Would-be adoptive parents, insufficiently informed about the situation in the foreign country and the implications of inter-country adoption, sometimes yield to financial pressures without receiving any guarantees. The proliferation of such situations leads to "high-risk" adoption conditions borne, in the final analysis, by the children and the prospective parents.

295. The French adoption procedures contain only a few measures that apply specifically to inter-country adoption: the obligation to apply for authorization in order to take charge of a child, the requirement of authorization for adoption agencies working with foreign countries and the establishment of an inter-country adoption office.

296. This office, which is responsible to the Minister for Foreign Affairs and is composed of representatives of ministries, informs people desiring to adopt

children about practices and procedures in the children's countries of origin, supervises the entry into France of adopted children, accredits and supervises French adoption agencies and, in cooperation with the other ministries concerned, participates in the drafting of regulations. Finally, owing to its close links with foreign Governments, it negotiates the relevant international agreements in cooperation with the Ministry of Justice.

297. The Hague Conference on Private International Law has prepared a draft convention that will be submitted to a diplomatic conference in May 1993. France played an active role in the discussions, which brought together experts from over 50 countries of origin and recipient countries, and worked for a pragmatic text aiming primarily at ensuring that the "displacement" of children for adoption takes place with due regard for moral considerations.

298. Given the current status of French legislation, the outstanding problems revolve around two themes:

Adoption in France

299. The purpose of the authorization procedure for prospective adoptive parents is to protect the child's interests by ensuring that the adopters are properly prepared. However, authorization in the case of a foreign child is not a requirement for the granting of adoption rights by French courts. Individuals who are not in possession of such authorization may thus embark upon an adventure for which they are ill prepared.

Effectiveness of adoption decisions taken abroad

300. Pursuant to a well-defined legal principle, decisions handed down abroad concerning the capacity and status of individuals are recognized in full in France.

301. For the adoption of foreign children, this principle raises the question of how to monitor the conformity with international law of a foreign adoption decision, and of how to characterize it (simple or full adoption). Although the phenomenon is insufficiently understood at present, it would appear that failures in respect of adoption are essentially linked to inter-country adoption procedures. It would therefore seem necessary for France's mechanisms to be improved in order to give these children the same guarantees as those available to children adopted in France.

H. Illicit transfer and non-return (art. 11)

302. Respect for the right of the child to maintain relations with both parents after their separation and across State borders has led France to conclude a number of bilateral treaties with neighbouring States (Morocco, Tunisia, Egypt and Portugal). Their purpose is to prevent child abduction and ensure the efficacy of court decisions establishing conditions for the exercise of parental authority. The most recent agreement, relating to children of Franco-Algerian couples who have separated, is dated 21 June 1988 and illustrates perfectly the terms of articles 10 and 11 of the Convention.

303. The objective is to guarantee to legitimate children of Franco-Algerian marriages the right to maintain regular contact with their separated parents, and thus to dissuade the parents from the illicit transport or retention of their children. The text of this bilateral agreement brings into play the extensive resources of ordinary law within the specific framework of the Franco-Algerian problem. According to the information received, the illicit displacement of Franco-Algerian children has virtually come to an end since the agreement entered into force.

304. Two multilateral conventions are likewise in force in France: the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (1980) and the Convention on the Civil Aspects of International Child Abduction (The Hague, 1980). These conventions are implemented by the relevant ministerial departments (Ministries of Foreign Affairs and Justice).

305. The issue of illicit displacement of children will take on a new dimension in the context of the European Community (see annexes nos. 2 and 5).

306. Two departments have been set up to deal with such matters:

Within the Ministry for Foreign Affairs, the Division for International Cooperation on Family Law is responsible, inter alia, for following up cases of displacement of children to countries that have not signed one of the Conventions and for diplomatic support for the activities of the Ministry of Justice in treaty matters.

Within the Ministry of Justice, a strong multidisciplinary body deals with the various factors, both legal and human, involved in this very special area of litigation.

I. Abuse and neglect (art. 19)

307. The protection of abused children in France is a priority of the child welfare services.

308. This concern has made for progress in respect of the concept of ill-treatment: while, at the end of the nineteenth century, ill-treatment was understood exclusively to mean physical violence, the concept is now construed to refer also to serious lack of affection, mental cruelty, sexual abuse and institutional violence.

309. With the above-mentioned Act, dated 10 July 1989, the lawmakers have sought to strengthen existing mechanisms by reaffirming the significant role of departmental authorities, and at the same time establishing a telephone hotline for abused children. The Act clearly confers upon the President of the Regional Council the general task of preventing mistreatment, uncovering cases of mistreatment and protecting mistreated children, as well as coordinating the work of all the competent departments.

310. Each service has to set up a mechanism for gathering information concerning mistreated minors and for responding to emergencies, in cooperation with the judiciary and other governmental departments (police, education and hospitals).

311. A national telephone hotline for abused children has also been established. This service, which is free of charge and functions round the clock, fulfils a number of purposes. It receives reports about emergency situations from witnesses or the children themselves and serves as a clearing house for information or advice for professionals or parents facing difficulties. It also has the purpose of responding to problems by mobilizing the departmental services.

312. A recent survey does not seem to corroborate the alarming figures that have regularly been cited in recent years. Out of 30,000 cases of children in danger brought before the juvenile courts by departmental services in 1991, 8,500 involved sexual abuse or mistreatment.

313. Statistics from the Ministry of Justice (metropolitan France and overseas departments) established that in 1990, 80,402 cases were recorded. In the same year, 3,377 individuals were accused of abuse, mistreatment or child desertion and incurred criminal proceedings.

314. Prior to the adoption of the Act of 10 July 1989, there had been no obligation in France to provide specialized training to doctors, judges, educators, social workers, policemen, etc. This lack of training has been recognized today, but overcoming it will be a long process, in light of the large number of professionals involved.

J. Periodic review of "placement" (art. 25)

315. This right, recognized by article 25 of the Convention, was established in France by the aforementioned Act of 6 June 1984 and Act of 6 January 1986 for children covered by the child welfare services. There are also provisions applying to children and adolescents who, due to a disability, live in a medico-social institution.

316. Too many of these arrangements were perpetuated because they had not been re-examined in the light of the evolving situation, and the absence of new developments was too frequently cited. In the child's interests, a dynamic relationship should be established between the family and the agency that takes charge of the child, for "placement" is not intended to last forever. If it has to be maintained, it must be a positive decision, not an omission.

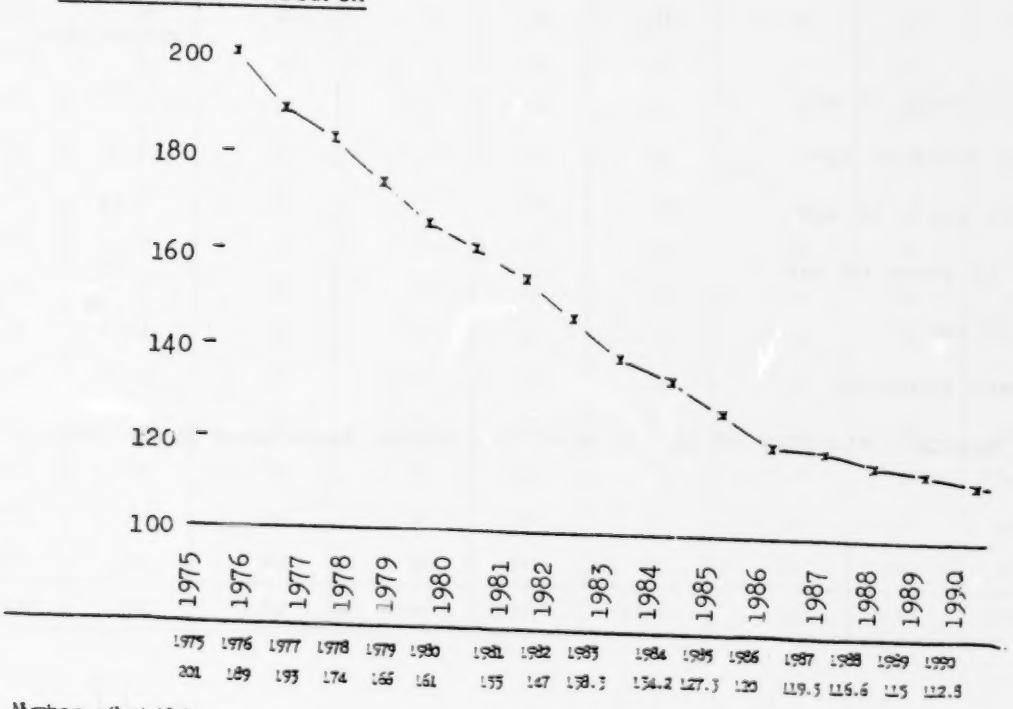
317. The texts envisage a binding rule. The impact of the measures, limited to one year for administrative procedures and to two years for court decisions, is to impose a regular review of situations. Either the parents are present and involved in making plans for the children, in which case the review can ease the child's return to the family, or the parents lose interest, and a new plan that could modify the child's legal status must be envisaged.

STATISTICAL INFORMATION

Child Welfare Service (ASE)

318. In 1990, 116,800 children (15 per cent more than in 1984) had access to a home care programme. In contrast, the number of children who were placed in care declined since 1984. In 1990, 112,800 children were handed over to the ASE, and 25,400 were placed directly by the courts in institutions run by associations. Of the children in the ASE's care, 70,000 were placed in care following a court decision. The majority of these children are placed in foster care, and the others are accommodated in social or medico-social facilities.

Annual total of children placed by the ASE



Number of children
(in thousands)

Source: SESI.

Types of placement for children who are in the care of the Children's Social Assistance Service
(1989)

	(percentage)
Foster care	55.3
Facilities	32.2
of which centres for children	(19.2)
Independent adolescents and young people having reached the age of majority	5.3
Other types of placement	7.2

Age structure of children admitted to the Children's Social Assistance Service
(1989)

	(percentage)
Under 2 years of age	16
3 to 5 years of age	13
6 to 10 years of age	19
11 to 15 years of age	19
Ages 16 and 17	11
18 years and older	22

Source: Ministry of Social Affairs - Social Assistance Study (SEISI).

Procedures for the placement of children in care in 1989 (including children who left during the course of 1989)

(Situation by year of birth)

Year of birth	Placed with a view to adoption				Not placed with a view to adoption			TOTAL
	Foster care	Family with certification for adoption	Outside the Department	TOTAL	Foster care	Institution	TOTAL	
1971	12	2	0	14	658	189	847	861
1972	11	2	1	14	676	192	868	882
1973	17	1	3	21	541	173	714	735
1974	17	6	2	25	434	114	548	573
1975	13	3	0	16	359	84	443	459
1976	17	2	4	23	222	42	264	287
1977	30	12	6	48	189	50	239	287
1978	30	14	1	45	143	31	174	219
1979	23	10	5	38	113	27	140	178
1980	15	20	2	37	109	27	136	173
1981	29	35	2	66	74	18	92	158
1982	39	32	11	82	68	29	97	179
1983	37	29	8	74	65	20	85	159
1984	31	45	9	85	70	19	89	174
1985	33	50	9	91	78	23	101	192
1986	22	70	21	113	79	23	102	215
1987	20	224	19	263	63	19	82	345
1988	20	506	28	554	62	35	97	651
1989	23	503	16	542	181	141	322	864
TOTAL	439	1 566	146	2 151	4 184	1 256	5 440	7 591

319. Three points are worth mentioning:

- The steady drop in the number of children who remain in care. This is due to the decline in the number of children taken in by the Service and is linked to the growth in the assistance provided to families and, concommitantly, to the increase of adoption;

- The improvement in the activities of the Service is shown by the growing number of children for whom a family was sought in another department;

- On the other hand, the figure of 322 children born in 1989 and not placed with a view to adoption is not significant, because it includes children admitted less than three months previously, whose parents can still take them back (see the following table: temporary wards).

Failure to begin adoption procedure: reasons (by year of birth for children present in 1989)

Year of birth	Adoption deemed inappropriate for the ward because:			Absence of suitable adopting family because of the child's:			Adoption procedure postponed because of appeal or dispute	Other reason	TOTAL
	Family ties still maintained	Successful integration in the foster family	Ward status temporary	State of health or disability	Age	Sibling status			
1971	36	367	32	145	92	90	10	75	847
1972	32	371	15	162	113	81	23	71	868
1973	26	284	29	140	91	67	15	62	714
1974	22	239	13	121	40	53	4	56	548
1975	15	175	13	94	38	44	10	54	443
1976	9	117	5	57	16	29	5	26	264
1977	9	83	13	67	15	23	9	20	239
1978	8	62	4	55	8	15	3	19	174
1979	4	44	6	50	5	12	5	14	140
1980	3	33	11	51	3	12	8	15	136
1981	4	27	1	35	4	4	4	10	92
1982	2	23	9	41	2	5	6	9	97
1983	0	19	5	51	0	2	6	2	85
1984	3	22	7	36	1	3	8	9	89
1985	1	16	10	50	0	3	10	11	101
1986	0	21	5	56	1	4	8	7	102
1987	1	16	11	42	1	1	5	5	82
1988	3	26	12	43	2	2	2	7	97
1989	1	55	139	79	3	2	9	34	322
TOTAL	179	2 000	343	1 375	435	452	150	506	5 440

Note: The years 1975 to 1977, during which the number of wards in the Service declined very noticeably, can be seen as a pivotal period for its working methods.

Number of visas for permanent settlement issued for these children by the Ministry of Foreign Affairs, broken down by their country of origin

Country	1985	1986	1987	1988	1989	1990	1991
Albania	-	-	-	-	-	-	2
Bangladesh	-	-	-	-	4	-	-
Bolivia	2	4	-	1	7	6	2
Brazil	225	289	312	539	488	683	504
Bulgaria	-	-	-	-	-	-	6
Burkina Faso	-	-	-	-	-	6	10
Cambodia	-	-	-	-	-	-	3
Cape Verde	-	-	-	-	-	8	-
Central African Republic	-	-	-	-	-	-	4
Chile	101	108	138	164	193	151	118
China	-	-	-	-	-	-	3
Colombia	173	137	107	280	339	332	288
Costa Rica	-	7	8	2	3	-	2
Côte d'Ivoire	-	-	-	-	-	-	5
Djibouti	-	-	-	59	38	58	58
Ecuador	4	3	7	6	1	-	3
El Salvador	10	19	21	26	26	19	22
Ethiopia	-	16	22	40	29	78	70
Guatemala	4	11	4	24	19	20	23
Haiti	58	35	82	60	71	61	85
Honduras	5	16	-	1	3	5	3
Hungary	-	-	-	-	-	-	2
India	147	155	121	170	116	108	122
Korea	944	736	242	398	220	167	93
Laos	-	-	-	-	-	-	5
Lebanon	-	16	-	25	13	20	18
Madagascar	12	56	147	259	259	123	58
Mali	-	-	1	6	29	69	20
Mauritius	29	98	118	43	29	14	2
Mexico	6	26	17	28	56	55	61
Nepal	2	4	1	-	-	11	12
Paraguay	-	-	2	1	-	-	2
Peru	3	32	45	61	103	85	55
Philippines	9	19	15	25	22	14	13
Poland	18	66	103	148	178	209	177
Romania	41	51	30	85	-	311	688
Rwanda	2	13	9	8	16	36	34
Saint Lucia	-	-	-	-	-	-	1
Senegal	-	-	-	-	15	15	15
Sri Lanka	193	297	153	1	88	198	154
Thailand	-	13	16	27	14	35	40
Togo	-	-	-	-	-	-	3
Tunisia	-	-	-	-	-	-	6
Turkey	-	-	-	-	16	-	1
USSR	-	-	-	-	-	-	2
Viet Nam	-	-	4	10	16	57	65
Yugoslavia	-	-	-	3	1	2	5
Totals	1 988	2 227	1 735	2 441	2 412	2 956	2 876

VI. HEALTH AND WELFARE

A. Survival, development and standard of living (art. 6, para. 2)

320. French family policy is based on two fundamental principles:

- Allowing families freedom of choice as to the family model and number of children desired;
- Promoting demographic stability.

321. It has developed along three main lines:

- General compensation for dependents (payment of family allowances as such and of allowances linked to childbirth and infancy);
- Allowances for large families;
- Specific allowances (rent subsidies, back-to-school allowance for persons who meet the income requirement, etc.).

322. Family allowances are the most visible and thus the best known component of family policy. They are supplemented by other forms of assistance, both general (tax measures, for example) and specific (measures to combat poverty, for instance).

323. The Government also keeps abreast of changes in family lifestyles, which have been affected by a steady increase in the number of working women; today, care for infants and a reconciliation between family life and the working life of the parents constitute two pillars of the Government's policy.

I. Family benefits

324. Regular residence in France and one or more dependent children form the conditions of eligibility for family benefits; since 1 January 1978, a minimum period of employment has no longer been required. Family benefits are paid for dependent children until the age of 16 when the period of compulsory schooling comes to an end. The payment is extended until the age of 18 for unemployed children and to the age of 20 for apprentices, students, persons with an incapacity that prevents them from working and other special cases.

1.1. "Maintenance" allowances

- Family allowances

325. Granted without conditions being posed as to resources, starting with the second dependent child, these vary according to the number of children.

- Supplementary family allowance

326. As of 1 January 1985, a supplementary family allowance is granted, for those meeting the resources requirement, to families with at least three children, all aged three or more.

1.2. Allowances linked to childbirth and infancy

- Allowance for young children (APJE)

327. An allowance for a young child is granted without conditions posed as to resources, ("short APJE") to all parents for nine months, beginning in the fourth month of pregnancy and lasting until the end of the child's third month of life.

328. Beginning at the age of four months and until the child's third birthday, the allowance continues to be paid to families whose income do not exceed a given ceiling ("long APJE").

329. The allowance for a young child is intended to assist the future mother in meeting the expenses of pregnancy and childbirth and to encourage her to take advantage of health check-ups so as to protect her health and that of the child, and thus meet preventive health-care concerns.

- Parental education allowance (APE)

330. The purpose of this allowance is to offset, at least in part, the loss of income associated with a parent working less or not at all following childbirth, adoption or the taking in of a foster child of less than three years of age whose arrival brings the number of dependent children to three or more. The recipient must provide proof of previous employment for a period of at least 2 years in the 10 years preceding the arrival of the child.

1.3. Specific allowances

- Beginning of school year allowance (ARS)

331. This allowance is a family benefit to help low-income families to meet part of the expenses incurred at the beginning of each school year for children under 18 years of age who are still in school. The finance law for 1993 instituted an allowance for school expenses for households not subject to income tax.

- Special education allowance (AES)

332. This allowance is meant to offset part of the additional expenses associated with educating a disabled child in the family. The size of the allowance depends on the seriousness of the disability.

1.4. Single-parent and related allowances

- Single-parent allowance (API)

333. The purpose of the single-parent allowance is to provide temporary assistance to persons raising at least one or more children alone. The allowance is paid for 12 months consecutively or until the youngest child has reached the age of three. The recipient must earn less than the official minimum family income.

- Family-support allowance (ASF)

334. This allowance is paid without conditions being posed as to resources to a parent or a family with dependent orphan children and is also granted for each child whose parents are separated when one or both parents refuse to pay maintenance for that child.

1.5. Child care allowance for infants

- Allowance for child care at home (AGED)

335. This allowance offsets all or part of the cost of the social security contributions connected with the employment of a person to look after a child or children of at least three years of age at the home of working parents.

- Financial assistance to families for employing a qualified child-minder (AFEAMA)

336. This covers the cost of all social security payments associated with the employment of a qualified child-minder to look after a child under six years of age. Additionally, it is accompanied by financial assistance directly to the family for each child being cared for, up to the age of six.

II. Other forms of family support

2.1. Tax deductions

337. The French income tax system provides very advantageous income tax relief for families. Tax deductions are granted for both couples and children: a married couple is counted as two units, one half a unit is assessed for each of the first two children, and one unit is allotted for the third child and thereafter, as well as in certain other cases. Thus, family make-up is of considerable importance when calculating one's income taxes. Various tax rebates (for example, family allowances) and reductions (e.g., expenses of child care for infants below the age of six) also mitigate the tax burden on families. The finance law for 1993 created a further tax deduction for taxpayers whose children are studying.

2.2. Rent subsidies

- Family housing allowance (ALF)

338. This allowance aims to offset the housing expenses of families and enables families to live in salubrious, uncrowded conditions.

- Individualized rent subsidy (APL)

339. This assistance does not pose conditions upon the individual but upon the nature of the housing, i.e. the existence of an agreement between the lessor and the State.

- Social housing allowance (ALS)

340. As from 1 January 1993, all persons renting a lodging who are not eligible for ALF or APL assistance may benefit, depending on their means.

2.3. Occupational training and education assistance

- Scholarships

341. The encouragement of increasingly long studies is highly desirable to meet training needs, but the resultant prolongation of schooling has repercussions on the cost of child support for families. The scholarship system for secondary school and university education attenuates the effects of this trend.

- Boarding and half-board expenses

342. Here again, measures have been taken to further the education of children from large families. Boarding and half-board expenses are calculated according to the number of children attending school in a family.

2.4. Support for recreational activities

343. Many local authorities have special children's tariffs for recreational activities (swimming pool, cinema, summer camp, etc.) that are set according to age. The French family allowance office grants assistance to persons and infrastructures so that all children can more readily take advantage of recreational facilities.

344. The State is also active in this area: every year, a large part of the budget of the Ministry of Youth and Sport is earmarked for sporting and socio-educational recreational activities (direct grants to reduce the cost of recreational activities for the most underprivileged children or to set up projects initiated by young people; assistance to institutions that provide recreational activities nearby or that offer holidays to underprivileged children; the opening of recreational facilities in the area, particularly for sports, during the holidays; construction of sporting facilities in underprivileged neighbourhoods). Finally, activities coordinated by several ministries are developed every summer to offer children and youths recreational activities during the school holidays.

2.5. Reconciling family life and working life (see above, paras. 70, 71 and 166 to 181).

2.6. Facilities for child care (see below, paras. 365 and following)

2.7. Social assistance for small children

345. This service, which is under the authority of the President of the Regional Council, must provide material, educational and psychological support to minors and families facing social difficulties likely to have a serious impact on their stability. By way of home assistance, it can arrange for a family worker, a home help or an educational assistant to intervene. If the family's means are insufficient, the service provides financial support in the form of special payments or monthly allowances.

2.8. Procedure for educational assistance

346. When the health, safety and morals of a child are in danger or when its education is seriously compromised, the juvenile magistrate may take educative assistance measures in the child's regard. Application may be made to this special magistrate, depending on the case, by the Office of the Public Prosecutor, the parents, the guardian, the person or service caring for the child, the minor himself or, exceptionally the magistrate may take action ex officio. Whenever possible, the minor is kept in his environment; the magistrate may then appoint a qualified person or service to provide assistance and counselling to the family. The magistrate may also place the child with another member of the family, with another trustworthy person or in an institution. In any event, the juvenile magistrate must try to obtain the family's agreement for the measure envisaged. His action is limited in time and accompanied by specific procedural guarantees to ensure respect for the rights of the minor.

347. In the course of 1990, 80,402 cases were opened involving 136,035 minors, 2,221 of which were brought directly before the children's magistrate.

2.9. The fight against poverty

348. With a view to helping the most disadvantaged families and households, various forms of financial support have been introduced in order to guarantee them a "minimum standard of life". Reference has already been made to some of these benefits: supplementary family allowance, single parent allowance, housing allowance, etc. The establishment in December 1988 of a minimum social income represents the culmination of this policy.

349. This allowance guarantees that any person resident in France receives a monthly minimum income that is increased according to the size of his family. The recipient is awarded a contract which specifies the actions taken on his behalf and under which he undertakes to participate in the activities necessary for his social and vocational integration. Entitlement to the minimum social income also makes it possible to be fully covered by the health insurance scheme. At the end of 1991, 490,000 households received the minimum social income, with single parent families with one or several children accounting for 21.2 per cent and two parent families 20.7 per cent.

350. Despite this highly elaborate social protection system, some families are still impoverished.

B. Disabled children (art. 23)

351. A child with a disability is first a child and then a disabled person. As a child, he should enjoy all the rights of a child without any restriction; because of his disability specific arrangements must be made for him.

352. The purpose of French legislation is to ensure that these children receive education and care in the best possible conditions and without undue expenditure by their families. Allowances are provided and lodging costs are borne by the State or social security; measures are taken to detect any disability as soon as the child is born, at the time of the compulsory examination; the children are taken in by various services such as the specialized education sections in colleges, medical-pedagogical and

medico-vocational institutes for muscular or sensory training; the referral of children to these services is the responsibility of special educational commissions whose decisions can be appealed.

353. This policy was implemented by the Act of 30 June 1975 entitled "Act on counselling for disabled persons".

354. Whenever the aptitudes of disabled persons make it possible, efforts should be made to ensure the access of disabled minors and adults to institutions open to the public as a whole and their stay in an ordinary working and living environment. The guideline law on education of 10 July 1989, already mentioned, states that scholastic integration of students with a disability is favoured. The new formulation of the texts governing specialized bodies as a whole (already mentioned) has the same goal, namely, the objectives of social integration and fulfilment of the individual and support for his admission to an ordinary scholastic environment are strongly recommended.

355. Steps are also being taken along these lines: thus, some holiday and recreation centres regularly accept children with a disability.

356. France can only be encouraged by article 23 of the Convention in strengthening its policy on behalf of the integration of disabled children. However, first of all, action needs to be taken in the domain of attitudes of mind in order to combat all forms of exclusion.

C. Health and medical services (art. 24)

357. Considerable progress has been made in this field, placing France among the most active countries, even if there are still some inequalities with regard to the access to care.

I. Maternal and child care (MIP)

358. Maternal and child care is a right governed by a specific act (Act of 18 December 1989). With a view to decentralization, MIP is entrusted to departmental services which offer many possibilities for health monitoring and preventive care. Nearly 10,000 physicians and nurses work within the field of MIP. The purpose of MIP services is to organize premarriage, prenatal and postnatal consultations and medico-social preventive measures for pregnant women; consultations and medico-social preventive measures for children under six years of age, particularly in day-nurseries, nursery schools and in the homes of qualified child-minders; family education planning activities provided for under the Act of 28 December 1967 relating to birth control; home care for pregnant women and children below six years of age whose condition require special attention; the publication and dissemination of the following documents: premarriage medical certificate, pregnancy record, health record, health certificates; training activities to assist qualified child-minders in their tasks; actions aimed at preventing mistreatment and taking charge of mistreated minors; collection of information on epidemiology and public health as well as the processing of such information, in particular information concerning children below six years of age.

II. Health promotion service

359. Children older than six years of age are followed by the health promotion service. This service has the task of preparing health records at key ages corresponding to stages in educational selection and guidance (6, 11, and 15 years); performing any medical examination requested by the teachers, parents or social service for any health problems or failure to adjust to school; carrying out systematic examinations of students attending technical courses and monitoring the application of legal provisions concerning industrial medicine; performing biometric tests and sensory examinations; monitoring the general hygiene of the school environment (premises, food hygiene); contributing to the health education of pupils, parents and teachers.

III. Medical services

360. In general, notable progress has been made in recent years with regard to the foster care, the practice of hospitalization (home hospitalization, extension of out-patient hospitals), consultations in dispensaries or medical-psycho-pedagogical centres.

D. Social security and child care services and facilities (arts. 26 and 27, para. 3)

I. Health insurance

361. Health insurance includes cash benefits (daily coverage) intended to compensate for the loss of salary because the insured party has stopped working and benefits in kind covering all or part of the medical or paramedical care received.

362. Family members of the insured person who are dependent upon him also receive benefits in kind from the health insurance system. They are essentially the spouse, if the spouse does not have social insurance, and his children if they are below the age of 16 (18 if they are serving as an apprentice, and 20 if they are continuing their studies or are disabled).

363. Persons not entitled to these benefits are covered by a personal insurance system that can be assumed totally or partly by various social protection agencies.

364. In view of the possibilities offered by the free medical aid system, the French health insurance system may be considered as meeting the requirements of article 26 of the Convention.

II. Child-care services and facilities

365. Particular stress has been placed in recent years by the authorities on the care of young children (below six years of age) with a view to developing quantitatively and qualitatively the methods of care and thereby making it possible for parents, in particular mothers, to achieve a better harmony between their working life and family life.

366. In addition to the nursery school, which cares for all four- and five-year olds, nearly all three-year olds and for about 35 per cent of two-year olds, provision has been made for two types of care outside the parental home:

2.1. Collective care in facilities

Collective day nurseries

367. The majority are managed by the local authorities. They provide continuous care during the day for children of two to three years of age whose parents work (108,600 places).*

Family nurseries (66,000 places)*

368. They consist of a group of child minders approved by the PMI (mother and child care) departmental service who take one or several children into their homes. They are associated in a management and organizational structure which is nearly always run by a local authority.

Parental day nurseries (7,400 places)*

369. They are collective care structures in which the parents take part in developmental, management and organizational activities. A qualified person assumes technical responsibility.

Wayside day-nurseries (55,700 places)*

370. These are collective temporary care centres under municipal, associative or parental management.

2.2. Care in the home of qualified child minders

(250,300 places for 130,500 child minders)

371. Child minders provide, in return for payment, permanent or temporary care for children below three years of age. They are approved by the mother and child care service which authorizes them to provide such care.

372. The Act of 6 July 1990 provided for families to be given legal aid for the care of their children by a child minder and the Act of 12 July 1992, previously mentioned, seeks to develop care in the homes of approved child minders by organizing the approval procedure, improving the status of these persons and increasing their qualifications.

373. The authorities support the development of these two options without giving one any preference over the other. They therefore supported the introduction, beginning in 1988, of "childhood contracts", signed by the family allowances funds and the local authorities in order to increase the number of places offered to families in care facilities and services for young children.

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* Situation as at 1 January 1992.

374. This arrangement has met with some success: 1,000 childhood contracts were signed at the end of 1991, representing 20,000 newly created places.

375. Lastly, a text is being prepared on all the care structures for children below six years of age (with the exception of care in the homes of child minders). It seeks to harmonize and simplify current regulations and to take into account all the developments that have occurred with regard to awareness of the needs of young children. The text, while laying down the norms for guaranteeing the conditions essential for the security of children, should provide further encouragement to the many innovations being carried out locally.

STATISTICAL INFORMATION AND INDICATORS

(Cf. Annexes No. 4: INSEE social data 1990

No. 6: health and the body
No. 7: family
No. 10: solidarity and imbalance)

Changes in security indicators at birth for children in France, 1970-1990

	1970		1980		1990
	(per 1,000 births)				
Infant mortality	18.2		10.0		7.3
(from 0 to 1 year)		(-45%)		(-27%)	
Neo-natal mortality	12.2		5.8		3.6
(from 0 to 1 month)		(-62%)		(-37%)	
Stillbirth rate	13.3		8.6		5.9
(Stillborn)		(-35%)		(-31%)	

Source: INSEE.

FAMILY BENEFITS INDICATORS

Resource conditions		Breakdown of family benefits provided with and without resource conditions by debtor bodies in 1991	1991 cost (1,000 francs) All schemes	
Without	With			
		Maintenance benefits		75 202
X		Family allowances (AF)	66 008	
	X	Family supplement (CF)	9 194	
		Benefits linked with birth and young children		25 892
		Allowance for a young child (APJE):		
X		short	5 499	
	X	long	14 470	
X		Parental education allowance (APE)	5 923	
		Specific purpose benefits		3 405
	X	Allowance for the beginning of the school year (ARS) 6 to 18 years	2 074	
X		Special Education allowance (ASE)	1 331	
		Benefits linked with separation		8 141
	X	Single parent allowance (API)	4 173	
X		Family support allowance (ASF)	3 968	
		Aids used for the care of young children		813
X		Allowance for the care of children at home (AGED)	279	
X		Assistance for the family for the employment of an approved child minder (AFEAMA)	534	
		Housing assistance		52 651
	X	Allowance for family housing (ALF)	12 767	
	X	Social housing allowance (ALS) a/	10 352	
	X	Individualized rent subsidy (APL) b/	29 532	
		Other benefits		485
	X	Differential allowance	184	
	X	Allowances paid abroad	274	
		GENERAL TOTAL		166 562

Source: Department of Social Security

a/ Financed by the State.
b/ Financed up to 50 per cent by the State.

BENEFITS AS AT 1 JANUARY 1993

Benefits	Mother country	
	Percentage of BMAF a/	Amount in francs b/
1. Family allowances (AF)		
1 child	-	-
2 children	32	644
3 children	73	1 470
4 children	114	2 296
5 children	155	3 122
per child beginning with the sixth child	41	526
Increased allowance by age: 10 to 15 years	9	181
from 15 years	16	322
2. Allowance for a young child (APJE)	45.95	925
3. Family supplement (LF)	41.65	539
4. Family support allowance (ASF)		
Total	30	604
Partial	22.5	453
5. Special Education Allowance (AES)		
Basic	32	644
First category supplement	24	483
Second category supplement	72	1 450
Third category supplement	-	5 226
6. Single Parent Allowance (API)		
Parent	150	3 021
Child	50	1 007
7. Parental Education Allowance (APE)		
Full rate	142.57	2 871
Minimum rate		1 436
8. Allowance for the beginning of the school year (ARS)	20	395
Beginning of school year	MBFA 1.7.92	
9. Allowance for child care at home (AGED)	-	6 000 per quarter

10. Increased assistance to the family for the employment of an approved child minder (AFEAMA)		
Child less than 3 years of age	25.78	519
Child between 3 and 6 years of age	15.47	312
11. Maternity Protection Premium (PPM)		
Beginning of former pregnancy as at 1.3.1992		Nil
Beginning of later pregnancy as at 1.2.1992		
12. First birth premium		Nil

Source: Department of Social Security

a/ Monthly basis for calculating family allowances (as at 1 January 1993: 2,014.04 francs).

b/ Rounded off to the nearest franc.

Note: The family benefits system in force in the overseas departments differ from that of the metropolitan France, account being taken of the demographic, economic and social particularities in those departments. Nevertheless, the amount of family allowances (para. 1) will be completely aligned with that of the mother country by 1 July 1993.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including vocational training and guidance (art. 28)

376. In France the education system is based on the principles set forth in various legislative texts adopted in the course of more than a century and reaffirmed in the aforementioned framework law of 10 July 1989.

- In them education is defined as the first national priority. The right to education is guaranteed to everyone.

- The education system is centred on the needs of pupils and contributes to equality of opportunity. It enables pupils to develop their personality, to raise their level of initial education and continues to form part of social and professional life. It promotes equality between men and women. It is in this spirit that priority education areas have been established and developed and that special attention is given to schooling in dispersed rural areas.

- The acquisition of a general culture and a recognized qualification is guaranteed to all young people, girls and boys, regardless of their geographical or social origin. Continuing education offers everyone an opportunity to raise his level of education, to adjust to economic and social change, and to obtain official recognition of knowledge acquired.

- Education is compulsory for children aged from 6 to 16 years.

377. At the age of three years every child should be able to attend a nursery school or kindergarten if his family so wishes. Enrolment as from two years is given priority in schools situated in socially underprivileged environments (urban, rural or mountain areas) in so far as places are available.

- Pupils from underprivileged backgrounds may be provided with financial assistance in their secondary and higher education. Any pupil who, at the end of his compulsory schooling, has not reached a recognized level of education must have an opportunity to continue his studies with a view to attaining it.

- The right to educational and vocational information and guidance forms part of the right to education; pupils draw up, with the help of their teachers, their school and vocational plans.

- An effort has been made to ensure that better account is taken of international cooperation in curricula at all levels.

378. In order to provide a better response to these overall objectives, the Ministry of Education and Culture carries out a number of activities in partnership with different ministries (Youth and Sport, Cities, Health and Humanitarian Action, Agriculture and Forestry, the Environment), with local authorities and with major national bodies such as the French Committee for Health Education and with international bodies such as UNICEF.

379. Thus, a guide to schooling entitled "The School Support Charter" published in 1992 meets a double objective: to publicize educational support measures in the most underprivileged districts and rural areas and to monitor their quality. Since 1991 the scope of action of the welfare services in secondary schools is laid down in the statement of their tasks and operational duties.

380. Making considerable efforts, the education system has to cope with an ever increasing "demand for education", from the nursery school to the university, in an uncertain economic context. Emphasis is placed on bringing together tuition and employment requirements in the form of vocational training alternating with periods of practical training in an enterprise and the validation of vocational attainments. To supplement this education system, an extensive vocational integration scheme has been established for young people most in difficulty.

381. Through reception, guidance and support activities, local agencies and permanent reception, information and guidance offices (PAIOs) provide support for every young person in building up his qualifications and preparing for his

vocational and social integration. Established on the initiative of the local authorities and presided over by an elected chairman, the local agencies bring together the State services and the economic and social partners. There are now 224 local agencies and 460 PAIOs in metropolitan France and the overseas departments, and 382 focal points for young people; 91 departments have at least one local agency, and among them 10 are fully covered by one or more local agencies; 14,000 communes are partners, including approximately 28 cities with over 100,000 inhabitants; 120,000 minors are registered and monitored at the local agencies and PAIOs.

B. Aims of education (art.29)

382. The Convention does not merely affirm the right to education; it defines the objectives thereof in a real educational project which essentially corresponds to the functions of the French education system. Promoting the development of the child's personality is an objective that was reaffirmed by the Act of 10 July 1989, which indicates that "education must develop in the young a taste for creation and for the practice of cultural and artistic activities and participation in community life. The education system must also provide for physical and education and sports".

383. Civic education is one of the compulsory subjects studied throughout school. Education in human rights is given in primary, secondary and high schools. The education in human rights given in secondary schools comprises the study of the principles on which the Republic is founded (liberty, equality and tolerance), an understanding of the rules of French democracy, and groundwork on institutions. A place is also accorded to the environment.

C. Leisure, recreation and cultural activities (art. 31)

384. The Convention has not overlooked the child's right to rest, leisure, and play - in other words, the right to a childhood. The practice of cultural, sporting and artistic activities is indispensable for children's full development and equilibrium. The structure of children's life in France is still governed by traditional arrangements. In comparison with other countries, in France children are subjected to an intense rate of schooling linked with a balanced distribution of time between school and holidays. The provision of cultural and sporting activities and facilities for relaxation, through appropriate measures, is designed to take better account of the pace of life of children and young people.

385. A large number of youth and public education associations offer children and young people a variety of activities during the school week and during holidays. Likewise, activities for integrating young people in difficulty and young handicapped people are carried out in holiday and leisure centres.

386. As far as holiday and leisure centres are concerned, France has developed, for the protection of minors, a well prepared system of supervision for group holidays for children and young people. This system, provided for by article 93 of the Family and Social Welfare Code, is based on the idea that parents who entrust their children to a group holiday organizer are in fact not able to exercise their responsibility for the education of their children

and provide for their material protection. The organizer provisionally exercises this responsibility under the control of the State. This control, which is mainly concerned with the medical, material, moral and educational conditions of the holiday centre, may give rise, pursuant to the decree of 29 January 1960, to administrative sanctions, including the suspension by the Minister of Youth and Sports of any person responsible who has seriously endangered the health and material or moral safety of minors.

387. In this context, the Ministry of Youth and Sport is endeavouring to strengthen the arrangements for the implementation of a preventive policy, particularly with regard to sexual abuse and maltreatment. Finally, prosecutions are also possible. (For all these matters, see annexes Nos. 1 to 3 and 5.)

Statistical information

(See annex No. 4: Social data, INSEE 1990
No. 8: Education and training)

VIII. SPECIAL PROTECTION MEASURES

A. Children in situations of emergency (art. 22)

388. Unaccompanied minors requiring special protection are to be found every year among the aliens applying for political asylum in France. They are either minors who are totally alone in France or minors whose escort or sponsor is not in a position to assume responsibility for them and for whom, in both cases, nobody has parental authority.

389. The situation of such minors varies according to whether they are spontaneous asylum-seekers or whether they arrived in French territory under a programme organized by the authorities. Unaccompanied minors whose arrival in France has been organized enjoy refugee status almost systematically from the age of 16 years. It is more difficult for under-age asylum-seekers who arrived unexpectedly in France to obtain refugee status.

390. The Convention on the Rights of the Child provides for the possibility of arranging repatriation when that solution is in the interests of the child. Furthermore, under French private international law it is possible to give minors effective judicial protection through such measures as guardianship and educational assistance. Minors can also enjoy all social security benefits payable for children independently of any consideration as to the legitimacy of their stay.

B. Children in conflict with the law (art. 40 and art. 37 (a), (b), (c) and (d))

Juvenile penal law

391. In French law minors in conflict with the law are subject to special arrangements under an ordinance of 2 February 1945. These are applied by magistrates and specialized courts: juvenile magistrates and juvenile courts for minor offences of the fifth class, all ordinary offences, and serious

offences committed by minors under 16 years, and juvenile assize courts for serious offences committed by minors aged from 16 to 18 years. These courts have a duty to decide on, as a matter of priority, measures for the protection, assistance, supervision and education of offenders.

392. Penal sanctions may not be imposed on children under 13 years of age, above that age they are exceptional and must be reduced between 13 and 16 years, and above that age they are optional, on the ground of diminished responsibility due to minority.

393. The priority given to education entails a number of consequences:

First, pre-trial proceedings are obligatory in all cases relating to minor offences of the fifth class, ordinary offences and serious offences committed by minors, the priority consideration being a knowledge of the minor's personality obtained through various investigations such as a social inquiry and medical and psychological examinations;

As soon as the pre-trial proceedings are begun, the magistrate may initiate educational action for the minor through placement in an open environment;

Finally, in correctional matters, in order to ensure continuity of the educational choice made, the juvenile magistrate may conduct the pre-trial proceedings in cases which he is due to try.

394. Criminal cases concerning minors or cases in which both minors and adults are involved are investigated by examining magistrates specialized in juvenile cases. At the end of the investigation, the simplest cases are heard in chambers by the juvenile magistrate. If the minor is found guilty, the juvenile magistrate may reprimand him or order various purely educational measures.

395. The more complex cases are tried by juvenile courts, which may impose penalties on minors over 13 years of age. They may still have recourse to simple educational measures. Criminal cases are tried by juvenile courts for minors under 16 years and by juvenile assize courts for minors aged from 16 to 18 years.

396. The juvenile magistrate is also the visiting magistrate in the case of penalties not involving imprisonment, such as suspended sentences with probation and community work. The serving of penalties of imprisonment is monitored by the visiting magistrate.

397. Finally, the ordinance of 2 February 1945 expressly provides for a number of special guarantees for minors. Thus, parents must be closely associated with all stages of the proceedings and the minor must have the benefit of a counsel. In order to ensure better protection for the minor, hearings at the trial are not public and may not be reproduced by the media.

398. A series of new provisions, directly based on the Convention on the Rights of the Child, strengthen the guarantees enjoyed by minors. They are

primarily designed to meet the requirements of article 37 of the Convention with regard to the imprisonment of minors. For example:

Two Acts of 30 December 1987 and 6 July 1989 have limited the possibility and duration of pre-trial detention of minors. From now on pre-trial detention is a measure of last resort, restricted to the most serious cases, in conformity with the terms of article 37 (b) of the Convention;

An Act of 4 January 1993 strengthens the guarantees for placement in pre-trial detention by conferring the duty to decide in the matter initially on the president of a court of major jurisdiction or a judge designated by him, and subsequently, as from 1 January 1994, on a board presided over by him;

The conditions of imprisonment of minors are also the subject of a study being made which has already led to the adoption of specific measures. For example, a list of the restricted number of prisons empowered to receive minors has been drawn up. These prisons, distributed throughout the country in order to permit the preservation of family ties, have available, or are equipped with structures which permit them to have available premises suitable for the reception and security of detained minors.

399. In the field of specific procedural guarantees recognized for minors, the Act of 4 January 1993 has made significant advances. For example, the holding of minors in police custody is from now on excluded under the age of 13 years and is fenced in with new guarantees between 13 and 18 years. The parents must be informed at the outset, the minor is entitled to consult a lawyer, and the case must be submitted to the Procurator of the Republic where the measure is renewed beyond 24 hours. As soon as the proceedings are initiated, the right to a defence is strengthened. Parents are more closely associated with the proceedings and are systematically informed of their progress.

400. The range of educational measures has been enlarged and the specific arrangements governing penalties applicable to minors have been re-defined. The Act of 4 January 1993 introduced compensation into our legislation on minors. This new measure, which may be decided upon at all stages of the proceedings, is based on the provision of aid or compensation which the minor makes, either directly for the benefit of the victim or for the benefit of an authority. The measure is based on the recommendations contained in article 40, paragraphs 3 and 4, of the Convention.

401. As far as penalties are concerned, the new Penal Code due to enter into force on 1 September 1993 re-states in clear terms the exceptional nature of the imposition of penal sanctions on minors over 13 years, while the Act of 16 November 1992 specifies the arrangements for the penalties applicable to them. Thus the imposition of a penalty of imprisonment on a minor must be substantiated. Similarly, certain penalties of forfeiture and prohibition will be excluded in the case of minors.

402. Finally, by providing for the automatic expunction of most sentences handed down against minors on the attainment of full age or on the expiry of

the measures ordered, this latter text guarantees that their cases will be removed from the record, thus promoting their rehabilitation.

403. Supporting measures have been taken to implement these new texts. For example, by a circular dated 15 October 1991 the Minister of Justice issued a reminder that deputy procurators responsible for cases involving minors must be specialists. The work done by the prosecutors concerned requires first of all that they should have a greater awareness of the characteristics of juvenile delinquency, together with the police and gendarmerie services and various partners such as the departmental services responsible for the administrative protection of children, schools or medical circles.

404. When cases come to the knowledge of prosecutors, the latter are required to provide prompt and explicit replies to the minor, as evidence that the judiciary will intervene effectively in the process of explaining the law and the minor's responsibility. The implementation of this circular in October 1992 was very much appreciated.

C. Children in situations of exploitation, including physical and psychological recovery and social reintegration (art. 39)

1. Economic exploitation

406. Young people are not allowed to work before they have been duly released from their obligation to attend school, in other words before they are 16 years of age. Young people can take up an apprenticeship at 15 years. During the school holidays, adolescents aged from 14 years may perform light work within the limits and in accordance with the formalities established by law.

407. It is forbidden to employ young people under 18 years in the preparation, handling or sale of written material, posters, drawings and other material whose sale, offer, exhibition, posting up or distribution are punished by the criminal law as being contrary to good morals. Finally, access to certain dangerous work is forbidden for young people under 18 years.

408. The Entertainment (Children's Employment) Act of 6 August 1963 provides that children who are still of school age may not be employed in fixed or itinerant entertainment enterprises or in radio or television enterprises without an individual prior authorization granted by the administrative authority. An application for authorization by an employer must be accompanied by the written authorization of the legal representatives.

409. Developments in publicity and the increase in audio-visual media have led to an augmented use of adult or child models to present messages or products for commercial purposes. Since the Act of 6 August 1963 did not cover this activity, children posing for publicity photographs or taking part in fashion parades enjoyed no protection. The Act of 12 July 1990 has filled this gap by regulating the profession and providing a statute for modelling agencies (see annex No. 5).

410. Any agency which employs a child model must either apply for, as in the case of children employed in entertainment, an individual prior authorization issued by the administration or have obtained approval for the hiring of child models.

411. The implementing decree of 9 September 1992 establishes the conditions for issuing the approval and the maximum daily and weekly lengths of employment (see annex No. 5).

2. Drug use

412. The treatment of this already particularly disturbing problem is made even more complex by the spread of the AIDS epidemic. The campaign against drugs has three aspects: prevention, care and repression. A policy of prevention has been pursued particularly in the case of young adolescents. For example, an increasing number of information campaigns have been carried out in schools from the primary level upwards, leisure centres and all places frequented by young people, such as local agencies and youth information centres.

413. These prevention campaigns are based on the finding that most young people may be offered drugs at some time in their lives. It is therefore a question of creating defences against the fascination of drugs by explaining or demonstrating the consequences of dependence. An anonymous and free telephone service has been established to reply to the concerns expressed by children and adults.

414. Furthermore, social environment committees, which constitute real assistance and support networks, were established in 1990 by the Ministry of National Education and by the General Commission for the Campaign against Drugs and Drug Addiction, a public institution responsible for coordinating activities in this field. In a circular issued in 1993 the committees are developed and account is taken of at-risk behaviour and violence, and partnership among institutions and associations is promoted.

415. Given the never-ending debate as to whether a drug addict is primarily a sick person or primarily a delinquent, French legislation aims at striking a balance between treatment and repression. The judicial authorities may, for example, stay prosecutions if a drug addict agrees to undergo treatment. Furthermore, the use of drugs in itself does not generally give rise to criminal prosecution but rather to the opening of educational assistance proceedings.

416. The need to check the spread of the AIDS epidemic has revived a lively debate on the methods to be used to protect drug addicts (see annex entitled Social data INSEE 1990 No. 6, Health and Body).

3. Sexual exploitation and violence

417. Understanding of the sexual exploitation of children is recent and the figures advanced vary greatly. Even if this phenomenon is marginal in France as compared with the situation in other countries, the authorities have taken several initiatives to improve the capabilities for prevention, protection and

repression. The prevention of sexual violence forms part of the campaigns for the prevention of maltreatment of children carried out by the authorities.

418. In 1988, a vast campaign was launched to prevent sexual maltreatment, aimed at pornography and prostitution but above all at incest and paedophilia. The results of the campaign, published in 1992, clearly show a failure to recognize the extent of the problem as reflected in the official statistics. The campaign is due to be renewed in 1993, on the occasion of a national day of reflection.

419. Furthermore, an inter-ministerial group was constituted in September 1992 to study "children used for the purposes of pornography or prostitution". French criminal law has long since increased the penalties for offences against morals when their victims are minors: this is so with rape and procuring. Other categories of offences are particularly designed to protect minors: they include indecent acts without violence or constraint, inciting a minor to debauchery, and abduction of a minor without fraud or violence.

420. The new Penal Code, which is due to enter into force on 1 September 1993, refines and strengthens the repression of dangerous and immoral behaviour of which minors may be the victims (see annex No. 5).

421. When the perpetrators of sexual maltreatment are the parents, and therefore the legal representatives of the victim, the Act of 10 July 1989 has provided for the possibility that the examining magistrate may designate an ad hoc administrator to represent the child in the proceedings and that the beginning of the period of prescription for offences committed against him by his parents may be postponed until he becomes of full age.

422. Furthermore, in parallel with the campaign launched by many associations and NGOs against sexual tourism, the National Advisory Commission for Human Rights, which is answerable to the Prime Minister, has established a working group on ethical issues whose objective has been to consider all forms of sexual exploitation of minors, particularly those related to pornography or prostitution.

423. It now appears that efforts must be focused on the technical improvement and development of information-gathering facilities. In parallel, apart from continuing with public awareness campaigns, it seems to be essential that the professional persons concerned, such as judges, teachers, doctors, social workers and policemen, should have an appropriate training.

424. Finally, the Ministry of Posts and Telecommunications has just drawn up a plan of action aimed at protecting minors from telephone message services of a violent or racist nature or which incite them to debauchery.

4. Sale, trading and kidnapping of children

425. The criminal law punishes the kidnapping, concealment or false imprisonment of a child, the replacement of one child by another, the supposition of a child to a woman who will not give birth, persons who incite parents to abandon their children, and persons who for profit serve as

intermediaries in the fostering or adoption of a child. In the new Penal Code, these latter categories of offences are the subject of a section entitled "Offences against filiation".

D. Children belonging to a minority or an indigenous group (art. 30)

426. France has entered a reservation with regard to this article (see paras. 46 and 47 above).

427. The exercise of fundamental freedoms, the operation of democracy and administrative decentralization make it possible for specific groups, whether cultural, religious or regional, to express themselves.

428. For several years the French Government has paid particular attention to the implementation of specific measures to promote the use of regional or minority languages, especially in the field of education. Moreover, at school foreign pupils or pupils from abroad can benefit from supportive measures enabling them to integrate two cultures. They can choose their mother tongue from among the 12 modern foreign languages that it is possible to study.

429. If the mother tongue cannot be learnt as a modern foreign language, foreign pupils or pupils of foreign parents are offered the possibility of following courses in the language and culture of origin under bilateral agreements reached with their country.

430. Furthermore, one of the objectives of the new curricula for the first stage of secondary education, published in 1985, is the opening-up of access to other cultures.

List of annexes*

Annex No. 1 - Preparatory work

Annex No. 2 - Information documents and documents promoting the Convention

Annex No. 3 - Agreement with associations and non-governmental organizations

Annex No. 4 - Statistical data

Annex No. 5 - Texts of legislation and regulations

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* These annexes may be consulted, in the French language version received from the Government of France, in the archives of the United Nations Centre for Human Rights.